

Washington, Saturday, January 8, 1955

TITLE 15—COMMERCE AND **FOREIGN TRADE**

Chapter III-Bureau of Foreign Commerce, Department of Commerce

Subchapter B-Export Regulations

[7th Gen. Rev. of Export Regs., Amdt. 17]

PART 373-LICENSING POLICIES AND RELATED SPECIAL PROVISIONS

NICKEL ALLOY SCRAP

Section 373.41 Nonferrous commodities, including ores, concentrates, or unrefined products is amended in the following particulars:

Subparagraph (1) Nickel-bearing alloy scrap of paragraph (e) Nickel-bearing alloy and cobalt scrap is amended to read as follows:

(1) Nickel alloy scrap, Schedule B No. 654502. Evidence of commercial unsalability in the domestic market, as provided in subparagraph (3) of this paragraph, shall be submitted in support of applications to export clean nickel alloy scrap containing less than 50 percent nickel, contaminated nickel alloy scrap containing 50 percent or more nickel. and all nickel-chromium-iron alloy scrap (nickel-bearing stainless steel scrap) containing up to 36 percent nickel with a minimum chromium content of 10 percent. Nickel-copper alloys containing 75 percent or less are excepted from this requirement.

This amendment shall become effective as of January 7, 1955.

(Sec. 3, 63 Stat. 7; 65 Stat. 43; 67 Stat. 62; 50 U. S. C. App. Sup. 2023. E. O. 9630, Sept. 27, 1945, 10 F R. 12245, 3 CFR, 1945 Supp., E. O. 9919, Jan. 3, 1948, 13 F R. 59, 3 CFR, 1948 Supp.)

LORING K. MACY. Director

Bureau of Foreign Commerce.

[F. R. Doc. 55-161; Filed, Jan. 7, 1955; 8:49 a. m.]

TITLE 7-AGRICULTURE

Chapter VII—Commodity Stabilization Service (Farm Marketing Quotas and Acreage Allotments), Department of Agriculture

[Amdt. 6]

PART 728-WHEAT

SUBPART—WHEAT MARKETING QUOTAS FOR 1954 CROP

FARM MARKETING EXCESS ADJUSTMENT

The amendment herein is issued for the purpose of affording any wheat producer who has not made application for an adjustment in the farm marketing excess initially determined for his farm with the prescribed period of time an opportunity to make application for an adjustment in those cases where production of wheat on the farm under the 1954 wheat marketing quota program is not in excess of the normal production of the wheat acreage allotment for the farm. Since the 1954 wheat crop has been harvested and the only purpose of this amendment is to grant relief to certain farmers from liability from marketing penalties, it is hereby found and determined that compliance with the notice, procedure, and effective date provisions of the Administrative Procedure Act is unnecessary and contrary to the public interest. Therefore, the amendment herein shall become effective upon application in the FEDERAL REGISTER.

Paragraph (a) of § 728.461 is amended to read as follows:

(a) Adjustment in the amount of the farm marketing excess. Any producer having an interest in the wheat produced in 1954 on any farm for which there is a farm marketing excess may (1) within 60 days after the threshing of wheat is normally substantially completed in the county in which the farm is situated apply to the county office for a downward

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for a determination that there was no farm marketing excess for the farm because the actual production on the farm

was not in excess of the normal production of the acreage allotment. The date on which the threshing of wheat is normally substantially completed in the county shall be determined by the State committee taking into consideration recommendations which the county committee may make and, unless application for an adjustment in the farm marketing excess is made prior to the expiration of 60 calendar days next succeeding that date or unless prior to the institution of court proceedings to collect the penalty with respect to the farm it is determined there was no farm marketing excess for the farm, the farm marketing excess for any farm in the county as determined on the basis of the normal production of the excess wheat acreage for the farm shall be final as to the producers on the farm. The producer must furnish satisfactory proof to the county committee of his actual production. The county office shall keep a record of each application so made and the date thereof. The county committee shall establish a time and place at which each application will be considered and shall notify the applicant of the time and place of the hearing. Insofar as practicable, applications shall be considered in the order in which

(Sec. 375, 52 Stat. 66, as amended; 7 U. S. C. Interprets or applies 55 Stat. 203, as amended; 7 U.S. C. 1340)

Done at Washington, D. C., this 5th day of January 1955.

[SEAL] TRUE D. MORSE, Acting Secretary of Agriculture. (F R. Doc. 55-173; Filed, Jan. 7, 1955; 8:52 a. m.]

Chapter VIII—Commodity Stabilization Service (Sugar), Department of Agriculture

Subchapter B—Sugar Requirements and Quotas [Sugar Reg. 814.13]

PART 814-ALLOTMENT OF SUGAR QUOTAS PUERTO RICO, 1955

Correction

In F R. Doc. 54-10367, appearing in the issue for Thursday December 30, 1954, at page 9319, make the following changes:

In the table following paragraph (9) on page 9321, in column (4) opposite "Central Mercedita, Inc." the entry the entry ".711" should read "6.711"

2. In § 814.13 (c) (2) line 9, add "as amended (19 F R. 2006, 5627)" following the reference to § 814.11.

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders), Department of Agriculture

[Navel Orange Reg. 42]

PART 914-NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALI-FORNIA

LIMITATION OF HANDLING

§ 914.342 Navel Orange Regulation 42—(a) Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 14, as amended (7 CFR Part 914, 19 F R. 2941) regulating the handling of navel oranges grown in Arizona and designated part of California, effective September 22, 1953, under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seg.) and upon the basis of the recommendation and information submitted by the Navel Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such navel oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule making procedure, and postpone the effective date of this section until 30 days after publication thereof in the Federal Register (60 Stat. 237. 5 U. S. C. 1001 et seq.) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The Navel Orange Administrative Committee held an open meeting on January 6, 1955, after giving due notice thereof, to consider supply and market conditions for navel oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein was promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such navel oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject thereto which cannot be completed on or before the effective date hereof.

(b) Order (1) The quantity of navel oranges grown in Arizona and designated part of California which may be handled during the period beginning at 12:01 a. m., P s. t., January 9, 1955, and ending at 12:01 a.m., P s. t., January 16, 1955, is hereby fixed as follows:

- (i) District 1. 369,600 boxes;
- (ii) District 2: 96,000 boxes;
- (iii) District 3: Unlimited movement;
- (iv) District 4. Unlimited movement.
- (2) Navel oranges handled pursuant to the provisions of this section shall be subject to any size restrictions applicable thereto which have heretofore been issued on the handling of such oranges

and which are effective during the period specified herein.

(3) As used in this section, "handled," "boxes," "District 1," "District 2," "District 3." and "District 4" shall have the same meaning as when used in said amended marketing agreement and order.

(Sec. 5, 49 Stat. 753, as amended; 7 U.S.C. 608c)

Dated: January 7, 1955.

S. R. SMITH, Director Fruit and Vegetable Division, Agricultural Marketing Service.

[F R. Doc. 55-225; Filed, Jan. 7, 1955; 11:38 a. m.]

[Tangerine Reg. 155]

PART 933-ORANGES, GRAPEFRUIT, AND TANGERINES GROWN IN FLORIDA

LIMITATION OF SHIPMENTS

§ 933.715 Tangerine Regulation 155-(a) Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 33, as amended (7 CFR Part 933) regulating the handling of oranges, grapefruit, and tangerines grown in the State of Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.) and upon the basis of the recommendations of the committees established under the aforesaid amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments of tangerines, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication thereof in the FEDERAL REGISTER (60 Stat. 237 5 U.S. C. 1001 et seq.) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient; a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions of this section effective not later than January 10, 1955. Shipments of tangerines, grown in the State of Florida, are presently subject to regulation by grades and sizes, pursuant to the amended marketing agreement and order and will so continue until January 10, 1955; the recommendation and supporting information for continued regulation subsequent to January 9, 1955, was promptly submitted to the Department after an open meeting of the Growers Administrative Committee on January 4, such meeting was held to consider recommendations for regulation, after giving due notice of such meeting, and interested persons were afforded an opportunity to submit their views at this meeting; the provisions of this section, including the the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such tangerines; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period hereinafter set forth so as to provide for the continued regulation of the handling of tangerines; and compliance with this section will not require any special preparation on the part of persons subject thereto which cannot be completed on or before the effective time of this section.

(1) During the period be-(b) Order ginning at 12:01 a.m., e. s. t., January 10, 1955, and ending at 12:01 a.m., e. s. t., January 24, 1955, no handler shall ship:

(i) Any tangerines, grown in the State of Florida, that do not grade at least U. S. No. 2;

(ii) Any tangerines, grown in the State of Florida, which grade U. S. No. 2, that are of a size smaller than the size that will pack 176 tangerines. packed in accordance with the requirements of a standard pack, in a halfstandard box (inside dimensions 91/2 x $9\frac{1}{2} \times 19\frac{1}{8}$ inches, capacity 1,726 cubic inches) or

(iii) Any tangerines, grown in the State of Florida, which grade U.S. No. 1 Russet, U. S. No. 1 Bronze, U. S. No. 1 or U. S. Fancy that are of a size smaller than 25/16 inches in diameter, which shall be the largest measurement at a right angle to a straight line running from the stem to the blossom end of the fruit, except that a tolerance of 10 percent, by count, of tangerines, smaller than such minimum diameter shall be permitted, which tolerance shall be applied in accordance with the provisions for the anplication of tolerances, specified in the revised United States Standards for Florida Tangerines (§§ 51.1810 to 51.1836 of this title)

(2) As used in this section, "handler," "ship," and "Growers Administrative Committee" shall have the same meaning as when used in said amended marketing agreement and order and the terms "U. S. No. 2," "U. S. No. 1 Russet," "U. S. No. 1 Bronze," "U. S. No. 1," "U. S. Fancy," and "standard pack" shall have the same meaning as when used in the revised United States Standards for Florida Tangerines (§§ 51.1810 to 51.1836 of this title)

(Sec. 5, 49 Stat. 753, as amended; 7 U.S. C.

Dated: January 5, 1955.

S. R. SMITH, Director Fruit and Vegetable Division, Agricultural Marketing Service.

[F. R. Doc. 55-162; Filed, Jan. 7, 1955; 8:50 a. m.]

[Orange Reg. 270]

PART 933-ORANGES, GRAPEFRUIT, AND TANGERINES GROWN IN FLORIDA

LIMITATION OF SHIPMENTS

§ 933.716 Orange Regulation 270—(a) Findings. (1) Pursuant to the marketing agreement, as amended, and Order

effective time hereof, are identical with No. 33, as amended (7 CFR Part 933) regulating the handling of oranges, grapefruit, and tangerines grown in the State of Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S. C. 601 et seq.) and upon the basis of the recommendations of the committees established under the aforesaid amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments of all Florida oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication thereof in the Federal Register (60 Stat. 237. 5 U. S. C. 1001 et seq.) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient; a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions of this section effective not later than January 10, 1955. Shipments of all oranges, including Temple oranges, grown in the State of Florida. are presently subject to regulation by grades and sizes, pursuant to the amended marketing agreement and order and will so continue until January 10. 1955, the recommendation and supporting information for continued regulation subsequent to January 9, 1955, was promptly submitted to the Department after an open meeting of the Growers Administrative Committee on January 4, such meeting was held to consider recommendations for regulation, after giving due notice of such meeting, and interested persons were afforded an opportunity to submit their views at this meeting; the provisions of this section, including the effective time hereof, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such oranges; it is necessary in order to effectuate the declared policy of the act, to make this section effective during the period hereinafter set forth so as to provide for the continued regulation of the handling of all oranges; and compliance with this section will not require any special preparation on the part of the persons subject thereto which cannot be completed by the effective time of this section.

(b) Order (1) During the period beginning at 12:01 a. m., e. s. t., January 10, 1955, and ending at 12:01 a.m., e. s. t., January 24, 1955, no handler shall ship:

(i) Any oranges, including Temple oranges, grown in the State of Florida. which do not grade at least U.S. No. 1 Russet; or

(ii) Any oranges, except Temple oranges, grown in the State of Florida, which are of a size smaller than $21\%_{16}$ inches in diameter, which shall be the largest measurement at a right angle to a straight line running from the stem to the blossom end of the fruit, except that a tolerance of 10 percent, by count, of oranges smaller than such minimum diameter shall be permitted, which tolerance shall be applied in accordance with the provisions for the application of tolerances, specified in the revised United States Standards for Florida Oranges (§§ 51.1140 to 51.1186 of this title) Provided, That in determining the percentage of oranges in any lot which are smaller than 21% inches in diameter, such percentage shall be based only on those oranges in such lot which are of a size $2^{14}/_{16}$ inches in diameter and smaller.

(2) As used in this section, the terms "handler," "ship," and "Growers Administrative Committee" shall each have the same meaning as when used in said amended marketing agreement and order and the term "U. S. No. 1 Russet" shall have the same meaning as when used in the revised United States Standards for Florida Oranges (§§ 51.1140 to 51.1186 of this title)

(Sec. 5, 49 Stat. 753, as amended; 7 U.S.C.

Dated: January 5, 1955.

S. R. SMITH, Director Fruit and Vegetable Division, Agricultural Marketing Service.

[F R. Doc. 55-168; Filed, Jan. 7, 1955; 8:51 a. m.]

[Grapefruit Reg. 215]

PART 933—ORANGES, GRAPEFRUIT, AND Tangerines Grown in Florida

LIMITATION OF SHIPMENTS

§ 933.717 Grapefruit Regulation 215-(a) Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 33, as amended (7 CFR Part 933) regulating the handling of oranges, grapefruit, and tangerines grown in the State of Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S. C. 601 et seq.) and upon the basis of the recommendations of the committees established under the aforesaid amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments of grapefruit, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice. engage in public rule making procedure, and postpone the effective date of this section until 30 days after publication thereof in the Federal Register (60 Stat. 237. 5 U. S. C. 1001 et seq.) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient; a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions of this section effective not later than January 10, 1955. Shipments of grapefruit, grown in the State of Florida, are presently subject to regulation by grades and sizes, pursuant to the amended marketing agreement and order and will so continue until January 10, 1955 the recommendation and supporting information for continued regulation subsequent to January 9, 1955, was promptly submitted to the Department after an open meeting of the Growers Administrative Committee on January 4, such meeting was held to consider recommendations for regulation, after giving due notice of such meeting, and interested persons were afforded an opportunity to submit their views at this meeting; the provisions of this section, including the effective time hereof, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such grapefruit; it is necessary in order to effectuate the declared policy of the act, to make this section effective during the period hereinafter set forth so as to provide for the continued regulation of the handling of grapefruit; and compliance with this section will not require any special preparation on the part of persons subject thereto which cannot be completed by the effective time of this section.

- (b) Order (1) During the period beginning at 12:01 a.m., e. s. t., January 10, 1955, and ending at 12:01 a.m., e. s. t., January 24, 1955, no handler shall ship:
- (i) Any white seeded grapefruit, grown in the State of Florida, which do not grade at least U. S. No. 1 Russet;
- (ii) Any pink seeded grapefruit, grown in the State of Florida, which do not grade at least U. S. No. 2;
- (iii) Any seedless grapefruit, grown in the State of Florida, which do not grade at least U. S. No. 2;
- (iv) Any white seeded grapefruit, grown in the State of Florida, which are of a size smaller than a size that will pack 70 grapefruit, packed in accordance with the requirements of a standard pack, in a standard nailed box:
- (v) Any pink seeded grapefruit, grown in the State of Florida, which are of a size smaller than a size that will pack 80 grapefruit, packed in accordance with the requirements of a standard pack, in a standard nailed box; or
- (vi) Any seedless grapefruit, grown in the State of Florida, which are of a size smaller than 311/16 inches in diameter, which shall be the largest measurement at a right angle to a straight line running from the stem to the blossom end of the fruit, except that a tolerance of 10 percent, by count, of seedless grapefruit smaller than such minimum diameter shall be permitted, which tolerance shall be applied in accordance with the provisions for the application of tolerances, specified in the revised United States Standards for Florida Grapefruit (§§ 51.750 to 51.790 of this title)

(2) As used in this section, "handler," "ship," and "Growers Administrative Committee" shall have the same meaning as when used in said amended marketing agreement and order and the terms "U. S. No. 1 Russet," "U. S. No. 2," "standard pack," and "standard nailed box" shall have the same meaning as when used in the revised United States Standards for Florida Grapefruit (§§ 51.750 to 51.790 of this title)

(Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. 608c)

Dated. January 5, 1955.

[SEAL] S. R. SMITH,
Director Fruit and Vegetable
Division, Agricultural Marketing Service.

[F R. Doc. 55-163; Filed, Jan. 7, 1955; 8:50 a. m.]

[Lemon Reg. 571]

PART 953—LEMONS GROWN IN CALIFORNIA AND ARIZONA

LIMITATIONS OF SHIPMENTS

§ 953.678 Lemon Regulation 571—(a) Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 53, as amended (7 CFR Part 953; 19 F R. 7175) regulating the handling of lemons grown in the State of California or in the State of Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S. C. 601 et seq.) and upon the basis of the recommendation and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of the quantity of such lemons which may be handled, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication thereof in the Federal Register (60 Stat. 237. 5 U.S. C. 1001 et seq.) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. Shipments of lemons, grown in the State of California or in the State of Arizona, are currently subject to regulation pursuant to said amended marketing agreement and order the recommendation and supporting information for regulation during the period specified herein was promptly submitted to the Department after an open meeting of the Lemon Administrative Committee on January 5, 1955, such meeting was held, after giving due notice thereof to

consider recommendations for regulation, and interested persons were afforded an opportunity to submit their views at this meeting; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary in order to effectuate the declared policy of the act, to make this section effective during the period heremafter specified; and compliance with this section will not require any special preparation on the part of persons subject thereto which cannot be completed by the effective time thereof.

(b) Order (1) The quantity of lemons grown in the State of California or in the State of Arizona which may be handled during the period beginning at 12:01 a.m., P s. t., January 9, 1955, and ending at 12:01 a. m., P s. t., January 16, 1955, is hereby fixed as follows:

(i) District 1. 35 carloads;

(ii) District 2: 215 carloads;

(iii) District 3: Unlimited movement.

(2) As used in this section, "handled," "carloads," "District 1," "District 2," and "District 3" shall have the same meaning as when used in the said amended marketing agreement and order.

(Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. 608c)

Dated: January 6, 1955.

[SEAL] S. R. SMITH,
Director, Fruit and Vegetable
Division, Agricultural Marketing Service.

[F R. Doc. 55-212; Filed, Jan. 7, 1955; 8:57 a. m.]

TITLE 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

[T. D. 53707]

PART 1-CUSTOMS DISTRICTS AND PORTS

REVOCATION OF DESIGNATIONS OF EAGLE, FAIRBANKS, AND SKAGWAY, ALASKA, AS PORTS OF DOCUMENTATION

Effective 30 days after the date of publication of this notice in the FEDERAL REGISTER, the designation of the ports of Eagle, Fairbanks, and Skagway in the District of Alaska as ports of documentation is revoked and the marine records of these ports are transferred to the port of Juneau, Alaska, which shall become the home port of all vessels whose home port is the port of Eagle, Fairbanks, or Skagway Alaska, on the date of revocation. To indicate such revocation § 1.1 (c) of the Customs Regulations is amended by deleting the asterisks appearing before the words Eagle, Fairbanks, and Skagway under the heading Ports of Entry for District No. 31, Alaska.

(R. S. 161, secs. 2, 3, 23 Stat. 118, as amended, 119, as amended, section 1, 43 Stat. 947, as amended; 5 U. S. C. 22, 46 U. S. C. 2, 3, 18)

Notice of the proposed revocation of the designation of Eagle, Alaska, Fairbanks, Alaska, and Skagway Alaska, as ports of documentation was published in the Federal Register of October 20, 1954 (19 F R. 6772) pursuant to section 4 of the Administrative Procedure Act (5 U. S. C. 1003) No objections to the issuance of the above revocation were received.

[SEAL]

RALPH KELLY, Commissioner of Customs.

Approved. January 3, 1955.

H. CHAPMAN ROSE,

Acting Secretary of the Treasury.

[F R. Doc. 55-140; Filed, Jan. 7, 1955; 8:46 a. m.]

TITLE 32—NATIONAL DEFENSE

Chapter V-Department of the Army

Subchapter E—Organized Reserves

PART 563—RETIREMENT OF MEMBERS OF RESERVE COMPONENTS

A new Part 563 is added to Subchapter E, as follows:

Sec.
563.1 Purpose.
563.2 Eligibility.
563.3 Application.
563.4 Creditable service.
563.5 Computation of service.

563.5 Computation of service.

563.6 Placement on AUS retired list. 563.7 Computation of retired pay.

563.7 Computation of retired pay.
 563.8 Status after placement on AUS retired list.

563.9 Change of address or status. 563.10 Survivors benefits.

563.11 Annuities and dual office.

563.12 Payment of pensions by Veterans Administration.

563.13 Prohibited activities.

AUTHORITY: §§ 563.1 to 563.13 issued under section 307, 62 Stat. 1090; 10 U. S. C. 1036f.

Source: AR 135-180, December 17, 1954.

§ 563.1 Purpose. Sections 563.1 to 563.13 implement the provisions of Title III of the Army and Air Force Vitalization and Retirement Equalization Act of 1948 (62 Stat. 1087 · 10 U. S. C. 1036–1036i) as amended by act of September 7, 1949 (63 Stat. 693 · 10 U. S. C. 1036a–b) and act of July 12, 1952 (66 Stat. 590) which provides the granting of retired pay to members or former members of the reserve components.

- § 563.2 Eligibility. (a) To be eligible for the benefits provided by Title III, Public Law 810, 80th Congress, an individual need not have a military status at the time of application, but must have—
 - (1) Attained age 60.
- (2) Completed a minimum of 20 years of satisfactory Federal service.
- (3) Served the last 8 years of his qualifying service as a member of a reserve component. Service in the Army of the United States is deemed to be service in a reserve component. Service as a member of a reserve component while serving as a member of the Regular Army Navy Air Force, Marine Corps, or Coast Guard shall not be deemed to be service in a reserve component. The last 8 years of qualifying service need not necessarily be an individual's last 8 years of military service, nor do they have to be eight continuous or consecutive years.
- (4) Performed active Federal service during some portion of either of the two

periods from April 6, 1917 to November 11, 1918 or September 9, 1940 to December 31, 1946, all dates inclusive, if a member of a reserve component prior to August 15, 1945.

(b) In addition to the requirements outlined in paragraph (a) of this section, in order to qualify for retired pay an applicant must:

- (1) Not be receiving, or be entitled to receive, under any other provision of law, retired pay for military or naval service, including retainer pay as a transferred member of the Fleet Reserve. However, military service may be credited for entitlement to certain pensions or old-age benefits on account of civilian employment even though such military service is used in the computation of service creditable toward retirement pay under §§ 563.1 to 563.13.
- (2) Not have accepted severence pay for physical disability under the provisions of section 403, Career Compensation Act of 1949 (63 Stat. 820 · 37 U. S. C. 273) upon separation from the service.
- (3) Not fall within the prohibitions of act September 7, 1954 (68 Stat. 1142) Generally this statute provides for denial of retired pay to persons otherwise eligible therefor who commit or are convicted of certain offenses or invoke the privilege against self incrimination under certain circumstances.
- § 563.3 Application. (a) The individual concerned is responsible for applying for the granting of retired pay under the regulations of §§ 563.1 to 563.13, on DD Form 108 (Application for Retirement Benefits Under the Provisions of Title III, Public Law 810 80th Congress) These forms may be obtained upon request to The Adjutant General, Department of the Army Washington 25, D. C., not more than 90 days prior to attaining the age of 60.
- (b) Completed DD Form 108 will be returned to The Adjutant General, to arrive at least 60 days in advance of the last day of the month in which the 60th birthday occurs, or 60 days prior to the last day of month in which placement on the AUS retired list is desired. Retroactive placement on this list is precluded except in instances where an administrative error is made by the Department of the Army
- (c) Answers to items indicated on DD Form 108 will be furnished as accurately and completely as possible from information readily available from the individual's personal records. Statements of service prepared by the Department of the Army are not necessary to document a request for retired pay and should not be requested for the purpose of completing an application. All records are carefully screened at the time application is processed. The data furnished serves as a guide with particular reference to other than Army service, if any.
- § 563.4 Creditable service. (a) Prior to July 1, 1949, service in any of the following components is credited for retirement purposes:
- (1) The National Guard of the United States.
- (2) The National Guard while in the service of the United States.

- (3) The federally recognized National Guard prior to 1933.
- (4) A federally recognized status in the National Guard prior to 1933.
- (5) The Officers Reserve Corps and Enlisted Reserve Corps prior to March 25, 1948.
 - (6) The Organized Reserve Corps.
- (7) The Naval Reserve and the Naval Reserve Force excluding those members of the Fleet Reserve and the Fleet Naval Reserve transferred thereto after completion of 16 or more years of active Naval service.
- (8) The Marine Corps Reserve and the Marine Corps Reserve Force, excluding those members of the Fleet Marine Corps Reserve transferred thereto after completion of 16 or more years of active Naval service.
- (9) The Limited Service Marine Corps Reserve.
- (10) The Naval Militia who have conformed to the standards prescribed by the Secretary of the Navy
 - (11) The National Naval Volunteers.
 - (12) The Air National Guard.
- (13) The Air Force Reserve (Officers and Enlisted sections)
- (14) The Air Force of the United States without component.
 - (15) The Coast Guard Reserve.
- (16) The Organized Militia from January 21, 1903.
 - (17) The Philippine Scouts.
 - (18) The Regular Army Reserve.
- (19) Army of the United States without component. Individuals whose Army of the United States commission did not terminate upon their relief from active duty prior to June 30, 1949, but continued for the duration of the period of the emergency can be credited with service for retirement purposes through June 30, 1949. After that date, however, those individuals whose only status was in the Army of the United States without component are not entitled to earn retirement point credits by participation in reserve activities.
 - (20) The Regular Services.
- (b) Subsequent to June 30, 1949 a reservist must earn a minimum of 50 retirement points each year in order to have that year credited for retired pay purposes. Only members assigned to an active section of the Army Reserve or individuals in active Federal service are authorized to earn retirement point credits.
- (c) The term "year" will be interpreted as follows:
- (1) Prior to July 1, 1949 a "year" of service shall be considered to be any 365 days, not necessarily consecutive.
- (2) On and after July 1, 1949, a "year" will be computed from July 1, of one year to June 30, of the following year, for persons who were members of a reserve component of the Armed Forces on July 1, 1949 and whose service continues without interruption. All dates are inclusive.
- (3) For persons who entered or reentered the service subsequent to July 1, 1949 the "year" of service will end on the day preceding the anniversary of such entry or reentry.
- (d) The following service is not creditable for retired pay
- (1) Army Field Clerk or Headquarters

- (2) Army Specialist Corps.
- (3) Auxiliary Reserve.
- (4) Cadet or Midshipman at the Military or Naval Academy.
- (5) Candidate, Officers Training Camp. prior to January 5, 1918.
- (6) Honorary Reserve of Retired Reserve.
 - (7) Inactive Reserve.
 - (8) Philippine Constabulary.
 - (9) Philippine Army.
 - (10) Public Health Service.
- (11) Reserve Officers Training Corps or Citizen Military Training Camp.
- (12) Civilian Conservation Corps (unless ordered to CCC duty as Reserve Officer.
- (13) Contract Surgeons and Contract Dentists.
- (14) Inactive National Guard.
- (15) State Administrative Staff prior to Army Appropriation Act, May 12, 1917
 - (16) State Guard.
- (17) National Guard Reserve.
- (18) Womens Army Auxiliary or Women's Air Service Pilots.
 - (19) Standby Status List.
- § 563.5 Computation of service. (a) Upon receipt of an application for retirement, a computation of service to determine eligibility, and of years of service upon which retired pay is based, will be made by The Adjutant General.
- (b) In the determination of years upon which retired pay will be computed, credit of 1 day will be given for each point credited as follows:
 - (1) Prior to July 1, 1949.
- (i) One point for each day of active Federal service.
- (ii) Fifty points for each year of service as a member of a reserve component as shown in § 563.4 (a) other than active Federal service.
- (iii) A proportionate part of 50 points for any fraction of a year will be credited.
- (2) Subsequent to June 30, 1949.(i) One point for each day of active
- Federal service.

 (ii) Fifteen points for each year of
- (11) Fifteen points for each year of membership in an active status in a reserve component.
- (iii) One point per calendar day for authorized participation in drills or periods of instruction which will conform to the requirements prescribed by the Secretary of the Army. Not more than 60 points per year, including the points authorized in subdivision (ii) of this subparagraph, will be credited for inactive duty in any 1 year.
- (iv) A proportionate part of 50 points for any fraction of a year of satisfactory Federal service only when a status as a member of an active component of the Reserves is terminated prior to the expiration of a retirement year and provided Reservists have earned the required proportionate part of the minimum 50 points.
- (c) Active Federal service includes all periods of annual training duty all prescribed periods of attendance at service schools, or any other period of time when ordered to active duty under competent Federal orders. It does not include attendance at service schools on invitational orders nor a period of hospitalization beyond an active duty training tour.

- § 563.6 Placement on AUS retired list. (a) Letter orders will be issued by The Adjutant General placing eligible individuals on the AUS Retired List effective the last day of the month in which they reach the age of 60, the last day of the month in which they are relieved from duty, or the last day of the month in which their application is filed, whichever is later. Retired pay is payable from the first day of the month following the effective date of placement on the AUS Retired List.
- (b) DD Form 363A (Certificate of Retirement) will be furnished after retirement orders have been issued. Only service considered to be satisfactory Federal service for retirement pay will be included.
- (c) An officer placed on the AUS Retired List pursuant to title III of the act-is not entitled to mileage or transportation of dependents and household effects solely by reason of such action.
- § 563.7 Computation of retired pay.
 (a) Computation of retired pay will be made by the Commanding General, Finance Center, U. S. Army, Indianapolis 49, Indiana, upon receipt of orders and certification from The Adjutant General of the data prescribed in § 563.5.
- (b) Any person granted retired pay shall receive such pay at an annual rate equal to 2½ percent of the active duty annual base and longevity pay which the individual would receive if serving, at the time granted such pay on active duty in the highest grade, temporary or permanent, satisfactorily held by him during his entire period of service, multiplied by a number equal to the number of years and any fraction thereof (on the basis of 360 days per year) as determined pursuant to § 563.5. No person shall be entitled to receive retired pay at an annual rate in excess of 75 percent of the above-mentioned annual duty pay.
- (c) The following simplified method will enable individuals to compute the approximate amount of their retired pay:
- (1) Subtract total active duty prior to July 1, 1949 (including training periods) from total service creditable for retirement prior to that date. This determines the years of Federal service, other than active Federal service.
- (2) Credit 1 point for each day of active duty and 50 points for each year of other than active Federal service and the proportionate part of 50 points for any fraction of a year.
- (3) To the above total number of points add points earned after June 30, 1949 (not to exceed the maximum points allowable for each retirement year)
- (4) Divide the total points in subparagraphs (1) (2) and (3) of this paragraph, by 360 for the years of active service for pay purposes. This figure, multiplied by $2\frac{1}{2}$ percent (.025) times base and longevity pay (in highest Federalized grade satisfactorily held) determines the gross amount of monthly pay
- (d) Paragraph 4, section 15, Pay Readjustment Act of 1942, which provides

§ 563.6 Placement on AUS retired pay at a rate of 75 percent of active-duty pay for officers who served active-duty pay for officers who served in a military status prior to November dividuals on the AUS Retired List effective the last day of the month in the they reach the age of 60, the last 563.13.

§ 563.8 Status after placement on AUS retired list. Individuals granted retired pay under the provisions of the law are not entitled to Army hospitalization or medical service. Commissary or Army exchange privileges are authorized, subject to the availability of facilities and approval of the post or installation commander concerned.

§ 563.9 Change of address or status. Each individual receiving retired pay under the provisions of §§ 563.1 to 563.13 is personally responsible for notifying the Commanding General, Finance Center, U. S. Army Indianapolis 49, Indiana, of any change of mailing address or any change in status which would affect the payment of retired pay or result in the discontinuance of such pay.

§ 563.10 Survivors benefits. (a) Retired pay due applicant on the date of his death is payable to his estate.

- (b) Under the provisions of the Uniform Services Contingency Option Act of 1953 (67 Stat. 501, 37 U. S. C. 371–381) an individual may elect to receive a reduced amount of retired pay in order to provide an annuity payable after his death in a retired status to his widow and/or children. If no option is made under Public Law 239, no benefits are payable to widow or estate after the death of individual retired under Title III, Public Law 810, 80th Congress.
- § 563.11 Annuities and dual office—
 (a) Annuities. Persons entitled to receive retired pay under the provisions of Title III, Public Law 810, 80th Congress, may concurrently receive annuities under the provisions of the Civil Service Retirement Act of 1930 (46 Stat. 468) as amended.
- (b) Dual office. A reserve officer who has been placed on the Army of the United States Retired List in accordance with Title III, Public Law 810, does not hold an office to which compensation is attached within the meaning of the dual office act July 31, 1894 (28 Stat. 205) as amended.
- § 563.12 Payment of pensions by Veterans Administration. The Administrator of Veterans Affairs has held that pensions and compensation administered by Veterans Administration may not be paid concurrently with retired pay authorized under Title III, Public Law 810, 80th Congress. Such individuals may, however, relinquish their retired pay under that law and continue to receive benefits from the Veterans Administration.
- § 563.13 Prohibited activities. The prohibition usually appearing in annual appropriation acts that no payment shall be made to "any officer" on the retired list of the Army who is engaged in the selling of any war materials or supplies to the Department of the Army is not applicable to persons who are

Public Law 810, 80th Congress.

JOHN A. KLEIN, Major General, U S. Army, The Adjutant General.

[F. R. Doc. 55-153; Filed, Jan. 7, 1955; 8:47 a. m.]

TITLE 36—PARKS, FORESTS, AND **MEMORIALS**

Chapter I-National Park Service, Department of the Interior

PART 20-SPECIAL REGULATIONS

ROCKY MOUNTAIN NATIONAL AND SEQUOIA-KINGS CANYON NATIONAL PARKS

- 1. Section 20.7 Rocky Mountain National Park, is amended by the addition of paragraph (g) reading as follows:
- (g) Commercial automobiles busses. The prohibition against the admission of commercial automobiles and busses to Rocky Mountain National Park, contained in § 1.36 of this chapter, shall be subject to the following exception. Motor vehicles operated on a general,

granted retired pay under Title III, infrequent, and nonscheduled tour on which the visit to the park is an incident to such tour, carrying only roundtrip passengers traveling from the point of origin of the tour, will be accorded admission to the park upon establishing to the satisfaction of the Superintendent that the tour originated from such place and in such a manner as not to provide, in effect, a regular and duplicating service conflicting with, or in competition with, the services provided for the public at or outside the park pursuant to contract authorization with the Secretary. Admission to the park will be accorded such motor vehicles upon payment of a special tour permit fee of \$1.00 per passenger-carrying seat in the vehicle.

- 2. Subparagraph (2) of paragraph (e) Fishing, of § 20.8 Sequoia-Kings Canyon National Parks, is amended to read as follows:
- (2) The limit of catch per person per day shall be 10 fish, not exceeding ,5 pounds of fish and 1 fish. Possession of more than 1 day's catch of fish by any person at any one time is prohibited. No minimum size limit for trout is prescribed in the parks.

- 3. Subparagraph (4) (i) of paragraph (e) Fishing, of § 20.8 is amended to read as follows:
- (i) On the watershed of the North Fork of the Kaweah River Yucca Creek and tributaries from confluence with North Fork to sources from July 1 to close of season; Cabin Creek from Generals Highway to source.
- 4. Subparagraph (5) (i) of paragraph (e) Fishing, of § 20.8 is amended to read as follows:
- (i) On the watershed of the South Fork of the Kings River Sheep Creek and its tributaries from source to Park boundary. Lewis Creek from Park boundary where signs are posted at the intake of the water supply to the first trail crossing and Comb Creek from Lewis Creek to trail crossing.

(Sec. 3, 39 Stat. 535, as amended; 16 U. S. C. 3)

Issued this 4th day of January 1955.

Douglas McKay, Secretary of the Interior

[F R. Doc. 55-136; Filed, Jan. 7, 1955; 8:45 a. m.]

PROPOSED RULE MAKING

DEPARTMENT OF AGRICULTURE sieve and not more than 10 percent of

Agricultural Marketing Service [7 CFR Part 26]

SOVREANS

NOTICE OF HEARINGS ON PROPOSED REVISED OFFICIAL GRAIN STANDARDS

Notice is hereby given that the United States Department of Agriculture has under consideration certain proposed changes in the official grain standards of the United States for soybeans (7 CFR 26.601 et seq.) promulgated under the authority of the United States Grain Standards Act as amended (39 Stat. 482; 54 Stat. 765; 7 U. S. C. 71 et seq.) decrease in the maximum limits for foreign material in each grade was requested in a petition submitted by the American Soybean Association. other changes proposed in the standards are suggested by the Grain Division, Agricultural Marketing Service, for the purpose of improving and clarifying the

Pursuant to the provisions of section 4 of the Administrative Procedure Act (5 U. S. C. 1003) public hearings will be held and written communications will be received in order that all interested persons may have an opportunity to express their views on the proposed revised soybean standards, which are as follows:

§ 26.601 Terms defined. For the purposes of the official grain standards of the United States for soybeans:

(a) Soybeans. Soybeans shall be any grain which consists of 50 percent or more of whole or broken soybeans which will not pass readily through an 8/64 other grains for which standards have been established under the United States Grain Standards Act.

(b) Classes. Soybeans shall be divided into the following classes: Yellow soybeans, green soybeans, brown soybeans, black soybeans, and mixed soybeans.

(c) Yellow soybeans. Yellow soybeans shall be all varieties of soybeans with yellow seed coats and may contain not more than 10 percent of soybeans of other colors. Yellow soybeans with a tinge of green shall be classified as yellow soybeans.

(d) Green soybeans. Green soybeans shall be all varieties of soybeans with green seed coats, and may contain not more than 10 percent of soybeans of other colors.

(c) Brown soybeans. Brown soybeans shall be all varieties of soybeans with brown seed coats, and may contain not more than 10 percent of soybeans of other colors.

(f) Black soybeans. Black soybeans shall be all varieties of soybeans with black seed coats, and may contain not more than 10 percent of soybeans of other colors.

(g) Mixed soybeans. Mixed soybeans shall be any mixture of soybeans which does not meet the requirements of the classes yellow soybeans, green soybeans. brown soybeans, or black soybeans. Bicolored soybeans shall be classified as mixed soybeans.

(h) Grades. Grades shall be the numerical grades, sample grade, and special grades provided for in § 26.603.

(i) Bicolored soybeans. Bicolored soybeans shall be any soybeans with seed coats of two colors, one of which is black or brown.

(j) Other grains. Other grains shall be barley, corn, flaxseed, grain sorghums, oats, rye, wheat, buckwheat, einkorn, emmer, Polish wheat, poulard wheat, spelt, rice, popcorn, sweet corn, cowpeas, and wild oats.

(k) Splits. Splits shall be pieces of soybeans that are not damaged.

(1) Damaged kernels. Damaged kernels shall be soybeans and pieces of soybeans which are heat-damaged, sprouted, frosted, badly ground-damaged, badly weather-damaged, moldy, diseased, or otherwise materially damaged.

(m) Heat-damaged kernels. Heat-damaged kernels shall be soybeans and pieces of soybeans which have been materially discolored and damaged by

(n) Foreign material. Foreign material shall be all matter, including soybeans and pieces of soybeans, which will pass readily through an 8/64 sieve and all matter other than soybeans remaining on such sieve after sieving.

(o) Stones. Stones shall be concreted earthy or mineral matter and other substances of similar hardness that do not disintegrate readily in water.

(p) 8/64 sieve. An 8/64 sieve shall be a metal sieve 0.032 inch thick perforated with round holes 0.125 (%4) inch in diameter with approximately 4,736 perforations per square foot.

§ 26.602 Principles governing application of standards. The following principles shall apply in the determination of the classes and grades of soybeans:

(a) Basis of determination. Each determination of class, splits, damaged kernels, and heat-damaged kernels shall

be upon the basis of the grain when free from foreign material. All other determinations shall be upon the basis of the grain as a whole.

- (b) Percentages. All percentages shall be upon the basis of weight. The percentage of splits shall be expressed in terms of whole percents. All other percentages shall be expressed in terms of whole and tenths percents.
- (c) Moisture. Moisture shall be ascertained by the air-oven method prescribed by the United States Department of Agriculture, or ascertained by any method which gives equivalent results.
- (d) Test weight per bushel. Test weight per bushel shall be the weight per Winchester bushel as determined by the method prescribed by the United States Department of Agriculture, or as determined by any method which gives equivalent results.
- § 26.603 Grades, grade requirements, and grade designations. The following grades, grade requirements, and grade designations are applicable under these standards:
- (a) Grades and grade requirements for soybeans (see also paragraph (c) of this. section)

		Maximum limits of—					
	Minimum			Damaged kernels			Brown, black,
Grade	test weight	Moisture	Splits	Total	Heat damaged	Foreign material	and/or bicolored soybeans in yellow or green soybeans
1	Pounds 56 54 52 49	Percent 12.0 14.0 16.0 18.0	Percent 10 20 30 40	Percent 2.0 3.0 5.0 8.0	Percent 0, 2 0, 5 1, 0 3, 0	Percent 1. 0 2. 0 3. 0 5. 0	Percent 1. 0 2. 0 5. 0 10. 0

Sample grade: Sample grade shall be soybeans which do not meet the requirements for any of the grades from No. 1 to No. 4, inclusive; or which are musty, sour, or heating; or which have any commercially objectionable foreign odor; or which contain stones; or which are otherwise of distinctly low quality.

- Soybeans which are purple mottled or stained shall be graded not higher than No. 3.
 Soybeans which are materially weathered shall be graded not higher than No. 4.
- (b) Grade designation. The grade designation for soybeans shall include in the order named the number of the grade or the words "Sample grade," as the case may be; the name of the class; and the name of each applicable special grade. In the case of mixed soybeans, the grade designation shall also include, following the name of the class, the approximate percentages of yellow green, brown, black, and bicolored soybeans in the mixture.
- (c) Special grades, special grade requirements and special grade designations for soybeans—(1) Garlicky soybeans—(i) Requirements. Garlicky soybeans shall be soybeans which contain 5 or more garlic bulblets in 1,000 grams.
- (ii) Grade designation. Garlicky soybeans shall be graded and designated according to the grade requirements of the standards applicable to such soybeans if they were not garlicky and there shall be added to and made a part of the grade designation the word "garlicky."
- (2) Weevily soybeans—(i) Requirements. Weevily soybeans shall be soybeans which are infested with live weevils or other live insects injurious to stored grain.
- (ii) Grade designation. Weevily soybeans shall be graded and designated according to the grade requirements of the standards applicable to such soybeans if they were not weevily and there shall be added to and made a part of the grade designation the word "Weevily."

The following changes in the present standards are incorporated in the above proposed standards:

1. Restrict other grains in the definition for soybeans to those grains for

- which standards have been established. The proposal, if adopted, would permit grains for which standards have not been established to be considered only as foreign material.
- 2. Define the classes Yellow Soybeans and Green Soybeans on the basis of seed coat color. The proposal, if adopted, would classify soybeans with green seed coats which in cross section are yellow as Green Soybeans, instead of Yellow Soybeans as at present.
- 3. Restrict the definition for splits to pieces of soybeans that are not damaged. The proposal, if adopted, would restrict splits to sound pieces of soybeans. Damaged pieces of soybeans would function only as damaged soybeans and not as both damaged soybeans and splits as at present.
- 4. In the table of grade requirements-
- a. Decrease the maximum limit for moisture content by 1 percent in grade No. 1. The proposal, if adopted, would limit the maximum moisture content permitted in grade No. 1 to 12.0 percent instead of the present 13.0 percent.
- b. Decrease the maximum limits for foreign material by 1 percent in each numerical grade. The proposal, if adopted, would limit the maximum amount of foreign material permitted in grade No. 1 to 1.0 percent instead of the present 2.0 percent; in grade No. 2 to 2.0 percent instead of the present 3.0 percent; in grade No. 3 to 3.0 percent instead of the present 4.0 percent; and in grade No. 4 to 5.0 percent instead of the present 6.0 percent.
- c. Provide maximum limits for heatdamaged kernels in each numerical grade. The proposal, if adopted, would limit the maximum amount of heat-

damaged kernels permitted in grade No. 1 to 0.2 percent; in grade No. 2 to 0.5 percent: in grade No. 3 to 1.0 percent: and in grade No. 4 to 3.0 percent. At present there are no special limits for heat-damaged kernels in any of the numerical grades.

d. Provide that purple mottled or stained soybeans shall be graded not higher than No. 3. The proposal, if adopted, would require that soybeans which are purple mottled or stained shall be graded not higher than No. 3. At present there are no restrictions with reference to this factor.

The following alternate proposal as a substitute for moisture limits § 26.603 (a) will be given consideration.

Decrease the maximum limits for moisture content by 1 percent for grade No. 1, 0.5 percent for grade No. 2; and 1 percent for grade No. 3. This proposal, if adopted, would limit the maximum moisture content permitted in grade No. 1 to 12.0 percent instead of the present 13.0 percent; in grade No. 2 to 13.5 percent instead of the present 14.0 percent; and in grade No. 3 to 15.0 percent instead of the present 16.0 percent.

The United States Grain Standards Act requires that public notice be given of the modification of standards adopted under its provisions, not less than 90 days in advance of the effective date of such modification. If revised standards are promulgated, they should be effective September 1, 1955.

Informal hearings will be held in Toledo, Ohio; Chicago, Illinois; Des Moines, Iowa, Memphis, Tennessee; and Decatur, Illinois, at which interested persons may submit their views and opinions orally or in writing with respect to the desirability of promulgating the proposed changes. The time and place of each hearing will be as follows:

February 9, 1955, 2:30 p. m., in room 312, Toledo Board of Trade, Edward Lamb Building, 418 Madison Avenue, Toledo, Ohio.

February 10, 1955, 2:00 p. m., in room 438, Chicago Board of Trade Building, Chicago,

February 11, 1955, 1:30 p. m., in the Iowa

Room, Savery Hotel, Des Moines, Iowa. February 14, 1955, 2:00 p. m., in the Georgian Room, Peabody Hotel, Memphis,

February 15, 1955, 2:00 p. m., in the main Ball Room, Orlando Hotel, Decatur, Ill.

Interested persons may also submit written data, views, or arguments to the Director, Grain Division, Agricultural Marketing Service, United States Department of Agriculture, Washington 25, D. C., to be received by him not later than February 28, 1955. Consideration will be given to all information obtained at the hearings, to written data, views, and arguments received by the Director not later than February 28, 1955, and to other information available in the United States Department of Agriculture before a decision is made as to what revisions, if any, shall be promulgated.

Jason E. Barr, Grain Division, Agricultural Marketing Service, is hereby designated to conduct these hearings. In case this designee is unable to conduct any of the hearings any other officer of the Department designated by the Director, Grain Division, Agricultural Marketing Service, is authorized to conduct such hearings.

Issued this 5th day of January 1955.

[SEAL]

ROY W LENNARTSON, Deputy Administrator

[F R. Doc. 55-165; Filed, Jan. 7, 1955; 8:50 a. m.]

[7 CFR Part 911]

[Docket No. AO-262]

MILK IN TEXAS PANHANDLE MARKETING AREA

NOTICE OF HEARING ON PROPOSED MARKETING AGREEMENT AND ORDER

Pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.) and in accordance with the applicable rules of practice and procedure, as amended (7 CFR Part 900) notice is hereby given of a public hearing to be held in the United States Post Office and Court House, Fifth and Taylor Streets, Amarillo, Texas, beginning at 10:00 a. m., January 31, 1955.

Subject and issues involved in the hearing. The public hearing is for the purpose of receiving evidence with respect to economic and marketing conditions which relate to the handling of milk for the Texas Panhandle marketing area and to the issuance of a marketing agreement and order regulating the handling of milk in the said marketing area. The proposed marketing agreement and order provisions set forth below have not received the approval of the Secretary of Agriculture. At the hearing evidence will be received relative to all aspects of the marketing conditions which are dealt with by the proposals and any appropriate modifications thereof.

The hearing on the proposed marketing agreement and order is to determine whether (1) the handling of milk in the area proposed to be regulated is in the current of interstate or foreign commerce, or directly burdens, obstructs, or affects interstate or foreign commerce, (2) the issuance of a marketing agreement or order regulating the handling of milk in the Texas Panhandle area is justified, and (3) the provisions specified in the proposals or some other provisions, appropriate to the terms of the Agricultural Marketing Agreement Act, will best tend to effectuate the declared policy of the Agricultural Marketing Agreement Act of 1937, as amended.

For the purpose of this hearing, the definition for the proposed Texas Panhandle marketing area shall be all the territory within Potter County and the cities of Borger and Pampa, all in the State of Texas. The marketing area which was suggested in the proposals submitted by various parties would, in the aggregate, include 51 counties (40 in Texas, 6 in New Mexico, and 5 in Oklahoma) an area of more than 53,000 and an examination of available data relative to the supply of milk for and the

distribution of milk throughout this over-all area establish a fair presumption, at least, that the marketing area for milk produced for sale in the Amarillo, Texas market, may be limited for all practical purposes to Potter County and the Cities of Borger and Pampa. Texas. The intent of the act would best be effectuated by limiting consideration at this time to a marketing agreement and order in which the marketing area is defined as not greater than all the territory within Potter County and the cities of Borger and Pampa. However, if evidence adduced at the hearing indicates that it would not be feasible to promulgate an order for this more limited area or that additional territory should properly be included under any proposed order for the Texas Panhandle area, the hearing will be reopened for the purpose of giving further consideration to an appropriate marketing area.

Marketing agreement and order proposed by the Tri-State Milk Producers Association:

DEFINITIONS

§ 911.1 Act. "Act" means Public Act No. 10, 73d Congress, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended.

§ 911.2 Secretary. "Secretary" means the Secretary of Agriculture or any officer or employee of the United States who is authorized to exercise the powers and to perform the duties of the Secretary of Agriculture.

§ 911.3 Marketing area.1

§ 911.4 Person. "Person" means any individual, partnership, corporation, association, or any other business unit.

§ 911.5 Producer "Producer" means any person other than a producer-handler, who produces milk in compliance with Grade A inspection requirements of a duly constituted health authority and whose milk is received at an approved plant or is diverted from an approved plant by the handler who operates such approved plant, or by a cooperative association to a plant which is not an approved plant for the account of such handler or cooperative association. "Producer" does not mean any dairy farmer with respect to milk received by a handler who is partially exempted from the provisions of this order pursuant to § 911.61.

§ 911.6 Approved plant. "Approved plant" means any milk plant:

(a) Approved by any health authority having jurisdiction within the marketing area for the processing of Grade A milk and from which Class I milk is disposed of on route(s) in the marketing area.

(b) Supplying to any agency of the United States Government located within the marketing area Class I milk products.

(c) Approved by any health authority having jurisdiction in the marketing area

¹As indicated elsewhere in this hearing notice, the Texas Panhandle marketing area definition with regard to which testimony may be presented at the hearing is confined to Potter County and the cities of Borger and Pampa, all in the State of Texas.

which serves as a receiving station by receiving, weighing, and commingling producer milk and from which such milk is normally transferred to a plant specified in paragraph (a) of this section.

(d) For the purpose of this definition,

the following shall apply:

(1) Milk diverted from an approved plant for the account of the handler operating such approved plant shall be considered as a receipt at the approved plant from which it was diverted; and

(2) Milk diverted from an approved plant to an unapproved plant for the account of a cooperative association which does not operate an approved plant shall be deemed to have been received by such cooperative association at an approved plant.

§ 911.7 Handler "Handler" means:
(a) Any person in his capacity as the operator of an approved plant; and

(b) Any cooperative association with respect to the milk of any producer which such cooperative association causes to be diverted to an unapproved plant for the account of such cooperative association.

§ 911.8 Cooperative association. "Cooperative association" means any cooperative association of producers which the Secretary determines:

(a) To be qualified under the provisions of the act of Congress of February 18, 1922, as amended, known as the "Capper Volstead Act" and

(b) To have and to be exercising full authority in the sale of milk to its members.

§ 911.9 Producer-handler "Producer-handler" means any producer who operates an approved plant, but who receives no milk from other producers.

§ 911.10 Market administrator" means the person designated pursuant to § 911.20 as the agency for the administration of this part.

§ 911.11 Producer milk. "Producer milk" means all skim milk and butterfat produced by a producer, which is received at an approved plant either directly from such producer or from other handlers.

§ 911.12 Other source milk. "Other source milk" means all skim milk and butterfat other than that contained in producer milk.

§ 911.13 Route. "Route" means any delivery (including delivery by a vendor or a sale from a plant or a plant store) of milk or any milk product classified as Class I milk pursuant to § 911.41 (a) other than a delivery to any milk processing plant.

§ 911.14 Base milk. "Base milk" means producer milk received by handlers from a producer which is not in excess of such producer's daily base determined pursuant to § 911.90 multiplied by the number of days during the month for which milk was received from such producer.

§ 911.15 Excess milk. "Excess milk" means producer milk received by han-

dlers from a producer which is in excess of base milk received from such producer during the month.

MARKET ADMINISTRATOR

- § 911.20 Designation. The agency for the administration of this part shall be a market administrator who shall be a person shall be entitled to such compensation as may be determined by, and shall be subject to removal at, the discretion of the Secretary.
- § 911.21 Powers. The market administrator shall have the following powers with respect to this part:
- (a) To administer its terms and provisions;
- (b) To receive, investigate, and report to the Secretary complaints of violations;
- (c) To make rules and regulations to effectuate its terms and provisions; and (d) To recommend to the Secretary
- amendments thereto.
- § 911.22 Duties. The market administrator shall perform all duties necessary to administer the terms and provisions of this part, including but not limited to the following:
- (a) Within 45 days following the date upon which he enters upon his duties execute and deliver to the Secretary a bond, conditioned upon the faithful performance of his duties, in the amount and with surety thereon satisfactory to the Secretary
- (b) Employ and fix the compensation of such persons as may be necessary to enable him to administer its terms and provisions:
- (c) Obtain a bond in a reasonable amount and with reasonable surety thereon covering each employee who handles funds entrusted to the market administrator.
- (d) Pay out of funds provided by § 911.88 the cost of his bond and of the bonds of his employees, his own compensation, and all other expenses (except those incurred under § 911.87) necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties;
- (e) Keep such books and records as will clearly reflect the transactions provided for in this part and surrender the same to his successor or to such other person as the Secretary may designate;
- (f) Submit his books and records to examination by the Secretary and furnish such information and reports as the Secretary may request;
- (g) Verify all reports and payments by each handler by inspection of such handler's records and of the records of any other handler or person upon whose utilization the classification of skim milk or buterfat for such handler depends;
- (h) Publicly disclose to handlers and producers, unless otherwise directed by the Secretary, the name of any person who within ten (10) days after the date upon which he is required to perform such acts, has not:
- (1) Made reports pursuant to § 911.30 through § 911.32; or
- (2) Made payments pursuant to § 911.80 through § 911.87.

- (i) Publicly announce by posting in a conspicuous place in his office and by such other means as he deems appropriate the prices determined for each month as follows:
- (1) On or before the 5th day of each month the minimum price for Class I milk computed pursuant to § 911.51 (a) and the Class I butterfat differential pursuant to § 911.52 both for the current month, and the minimum price for Class II milk computed pursuant to § 911.51 (b) and the Class II butterfat differential pursuant to § 911.52 both for the previous month,
- (2) On or before the 12th day of each month the uniform price computed pursuant to § 911.71 and the butterfat differential computed pursuant to § 911.82 both for the previous month.
- (j) Prepare and disseminate such statistics and information as he deems advisable and as do not reveal confidential information; and
- (k) On or before the 12th day of each month report to each cooperative association, which so requests, the percentage utilization of milk received from producers in each class by each handler who in the previous month received milk from members of such cooperative association.

REPORTS, RECORDS AND FACILITIES

- § 911.30 Periodic reports. On or before the 7th day after the end of each month each handler, except a producer-handler, shall report to the market administrator in the detail and form prescribed by the market administrator, as follows:
- (a) The quantities of skim milk and butterfat contained in milk received from producers, and the aggregate quantities of base and excess milk;
- (b) The quantities of skim milk and butterfat contained in receipts of milk, and milk products from other handlers;
- (c) The quantities of skim milk and butterfat contained in receipts of other source milk (except Class II products disposed of in the form in which received without further processing or packaging by the handler)
- (d) The utilization of all skim milk and butterfat the receipt of which is required to be reported to this section:
- (e) The pounds of skim milk and butterfat contained in all milk, skim milk, and cream and other Class I products on hand at the beginning and at the end of the months;
- (f) Such other information with respect to the receipts and use of milk as the market administrator may request, including the separate statement of skim milk and butterfat disposed of as Class I milk on routes wholly outside the marketing area.
- § 911.31 Payroll reports. On or before the 20th day after the end of each month each handler shall submit to the market administrator his producer payroll for such month which shall show for each producer.
- (a) His total deliveries of base milk and total deliveries of milk in excess of base milk and the number of days for which milk was received from each producer.

- (b) The average butterfat content of his milk; and
- (c) The amount of such handler's payments to such producer and cooperative association with the prices, deductions, and charges involved.
- § 911.32 Other reports. (a) Each producer-handler shall make reports to the market administrator at such time and in such manner as the market administrator shall require.
- (b) Each handler who causes milk to be diverted to an unapproved plant shall, prior to such diversion, report to the market administrator and to the cooperative association of which such producer is a member, of his intention to divert such milk, the proposed date or dates of such diversion and the plant to which such milk is to be diverted.
- § 911.33 Records and facilities. Each handler shall maintain and make available to the market administrator or to his representative during the usual hours of business such accounts and records of his operations and such facilities as are necessary for the market administrator to verify or establish the correct data with respect to:
- (a) The receipts of producer milk and other source milk and the utilization of such receipts.
- (b) The weights and tests for butterfat and other content of all milk, skim milk, cream and milk products handled;
- (c) Payments to producers and cooperative association; and
- (d) The pounds of skim milk and butterfat contained in or represented by all milk, skim milk, cream and each milk product on hand at the beginning and at the end of each month.
- § 911.34 Retention of records. books and records required under this part to be made available to the market administrator shall be retained by the handler for a period of three years to begin at the end of the calendar month to which such books and records pertain. Provided, That if, within such three-year periods, the market administrator notified the handler in writing that the retention of such books and records, or specified books and records, is necessary in connection with a proceeding under section 8c (15) (A) of the act or a court action specified in such notice, the handler shall retain such books and records. until further written notification from the market administrator. In either case the market administrator shall give further written notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection therewith.

CLASSIFICATION

- § 911.40 Skim milk and butterfat to be classified. All skim milk and butterfat received within the month by a handler which is required to be reported pursuant to § 911.30 shall be classified by the market administrator pursuant to the provisions contained in § 911.41 through § 911.46.
- § 911.41 Classes of utilization. Subject to conditions set forth in § 911.43 and § 911.44, classes of utilization shall be:

- (a) Class I milk shall be all skim milk (including reconstituted skim milk) and butterfat (1) disposed of in the form of milk, skim milk, buttermilk, flavored milk, flavored milk drinks, egg nog, yogurt, cream, aerated cream, cottage cheese, cultured sour cream, any mixture (except bulk ice cream mix) of cream and milk or skim milk, (2) used to produce concentrated (including frozen) milk, flavored milk or flavored milk drinks disposed of for fluid consumption neither sterilized nor in hermetically sealed cans, and (3) all other skim milk and butterfat not specifically accounted for as Class II milk.
- (b) Class II milk shall be all skim milk and butterfat (1) used to produce any product other than those specified in paragraph (a) of this section; (2) disposed of for livestock feed, (3) in frozen cream placed in storage; (4) in skim milk dumped, after prior notification to and opportunity for verification by the market administrator. (5) in shrinkage up to 2 percent of receipts from producers; (6) in shrinkage of other source milk; and (7) in inventory at the end of the month in the forms specified in paragraph (a) (1) and (2) of this section.
- § 911.42 Shrinkage. The market administrator shall prorate shrinkage of skim milk and butterfat classified in Class II milk between the receipts of skim milk and butterfat, respectively, in milk from producers and from other sources. For the purpose of prorating shrinkage of skim milk and butterfat, skim milk and butterfat in milk diverted directly from producers' farms to another handler shall be included as a receipt of the handler to whom such milk and butterfat was diverted, and excluded from receipts of the diverting handler.
- § 911.43 Responsibility of handlers and reclassification of milk. (a) All skim milk and butterfat shall be Class I milk unless the handler who first receives such skim milk or butterfat can prove to the market administrator that such skim milk or butterfat should be classified otherwise.
- (b) Any skim milk or butterfat classified as Class II milk shall be reclassified if such skim milk or butterfat is later disposed of by such handler or another handler (whether in original or other form) as Class I milk. Any skim milk or butterfat which was classified as Class II in the previous month pursuant to § 911.41 (b) (8) shall be reclassified as Class I milk if it is subtracted in the current month from Class I pursuant to § 911.46 (a) (4) or the corresponding step of § 911.46 (b)
- § 911.44 Transfers. Skim milk and butterfat transferred or diverted from an approved plant shall be classified.
- (a) At the class mutually indicated in writing to the market administrator by both handlers on or before the 7th day after the end of the month in which such transaction occurred, otherwise as Class I milk, if transferred or diverted in the form of milk, skim milk or cream to the approved plant of another handler, subject in either event to the following conditions:

- (1) The receiving handler has utilization in such class of an equivalent amount of skim milk and butterfat, respectively and
- (2) Such skim milk or butterfat shall be classified so as to allocate to producer milk the greatest possible total Class I utilization in the two plants.
- (b) As Class I milk if transferred in the form of milk, skim milk, or cream to a producer-handler.
- (c) As Class I milk if transferred or diverted in the form of milk, skim milk or cream to an unapproved plant located more than 300 miles from the approved plant by the shortest highway distance as determined by the market administrator, except that (1) cream so transferred may be classified as Class II milk if its utilization as Class II milk is established through the operation of another Federal order for another milk marketing area, or (2) cream so transferred with prior notice to the market administrator, and with each container labeled or tagged with a certificate of the transferor that such cream is sold as "Grade C cream for manufacturing only" may be classified as Class II milk, subject to such verification of alternative utilization as the market administrator may make.
- (d) As Class I milk, if transferred or diverted in the form of milk, skim milk or cream to an unapproved plant distributing fluid milk or cream and located less than 300 miles from the approved plant from which transferred, unless the market administrator is permitted to audit the records of receipts and utilization at such unapproved plant, in which case the classification of all skim milk and butterfat received at such unapproved plant shall be determined and the skim milk and butterfat transferred from the approved plant shall be allocated to the highest use remaining after subtracting, in series beginning with the Class I milk, receipts of skim milk and butterfat at such unapproved plant from dairy farmers who the market administrator determines constitute the regular source of supply for fluid usage of such unapproved plant in markets supplied by such plant.
- (e) As Class II milk, if transferred or diverted in the form of milk, skim milk or cream to an unapproved plant, located not more than 300 miles from the approved plant, and which does not distribute fluid milk or cream, except that where such unapproved plant is operated by a person who is also a handler or an affiliate of a handler, (1) the market administrator shall be permitted to audit the records of receipts and utilization at such unapproved plant, and (2) to the extent that skim milk or butterfat is disposed of from such unapproved plant to any other milk plant in the form of milk, skim milk, or cream, skim milk or butterfat so transferred or diverted to such unapproved plant shall be classified as if moved directly from the approved plant to such other milk plant.
- § 911.45 Computation of the skim milk and butterfat in each class. For each month, the market administrator shall correct for mathematical and for

- other obvious errors the report of receipts and utilization submitted by each handler and shall compute the pounds of skim milk and butterfat in Class I milk and Class II milk for such handler.
- § 911.46 Allocation of skim milk and butterfat classified. After making the computation pursuant to § 911.45 the market administrator shall determine the classification of milk received from producers as follows:
- (a) Skim milk shall be allocated in the following manner.
- (1) Subtract from the total pounds of skim milk in Class II the pounds of skim milk determined pursuant to § 911.41 (b) (5)
- (2) Subtract from the remaining pounds of skim milk, in series beginning with Class II, the pounds of skim milk in receipts of other source milk;
- (3) Subtract from the remaining pounds of skim milk in series beginning with Class II, the pounds of skim milk in inventory at the beginning of the month in the form of milk, skim milk, cream (except frozen) or any product specified in § 911.41 (a)
- (4) Subtract from the remaining pounds of skim milk in each class the skim milk received from other handlers in the form of milk, skim milk or cream according to its classification as determined pursuant to § 911.44 (a)
- (5) Add to the remaining pounds of skim milk in Class II the pounds of skim milk subtracted pursuant to subparagraph (1) of this paragraph, and
- (6) If the remaining pounds of skim milk in both classes exceed the pounds of skim milk received from producers, subtract such excess from the remaining pounds of skim milk in series beginning with Class II milk. An amount so subtracted shall be called "overage"
- (b) Butterfat shall be allocated in accordance with the same procedure outlined for skim milk in paragraph (a) of this section.
- (c) Determine the weighted average butterfat content of the Class I and Class II milk computed pursuant to paragraphs (a) and (b) of this section.
- § 911.50 Basic formula price to be used in determining Class I prices. The basic formula price to be used in determining the price per hundredweight of Class I milk shall be the higher of the prices computed pursuant to paragraphs (a) and (b) of this section.
- (a) The average of the basic of field prices per hundredweight reported to have been paid or to be paid for milk of 3.5 percent butterfat content received from farmers during the month at the following plants or places for which prices have been reported to the market administrator or to the Department divided by 3.5 and multiplied by 4.

Present Operator and Location

Borden Company, Mount Pleasant, Mich. Carnation Company, Sparta, Mich. Pet Milk Company, Hudson, Mich. Pet Milk Company, Wayland, Mich. Pet Milk Company, Coopersville, Mich. Borden Company, Orfordville, Wis. Borden Company, New London, Wis. White House Milk Company, West Bend, Vis.

Carnation Company, Chilton, Wis.

Carnation Company, Berline, Wis. Carnation Company, Richland Center, Wis. Carnation Company, Oconomowoc, Wis. Pet Milk Company, New Glarus, Wis. Pet Milk Company, Belleville, Wis. White House Milk Company, Manitowoc,

(b) The price per hundredweight computed by adding together the plus values pursuant to subparagraphs (1) and (2) of this paragraph:

(1) From the simple average as computed by the market administrator, of the daily wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk creamery butter per pound at Chicago as reported by the United States Department of Agriculture during the month, subtract three (3) cents, add twenty (20) percent thereof and multiply by 4.

(2) From the simple average, as computed by the market administrator, of the weighted averages of carlot price per pound for nonfat dry milk solids, spray and roller process, respectively for human consumption, f. o. b. manufacturing plants in the Chicago area, as published for the period from the 26th day of the immediately preceding month through the 25th day of the current month by the United States Department of Agriculture, deduct 5.5 cents, multiply by 8.5 and then multiply by 0.96.

§ 911.51 Class prices. Subject to the provisions of § 911.52, the minimum prices per hundredweight to be paid by each handler for milk received at his plant from producers during the month shall be as follows:

(a) Class I milk. The basic formula price for the preceding month plus \$2.55. (b) Class II milk. The price per

hundredweight shall be:

(1) For April, May and June of each year, the average of the prices reported to have been paid or to be paid for ungraded milk of 4 percent butterfat content received from farmers during the month at the following plants for which prices have been reported to the market administrator or the United States Department of Agriculture:

Present Operator and Location

Plains Creamery, Arnett, Okla. Swisher County Creamery, Tulia, Tex. Quint County Creamery, Mangum, Okla. Price Creamery, Portales, N. Mex.

(2) For all other months of the year. the price computed by adding together results of § 911.50 (b) (1) and (2)

§ 911.52 Handler butterfat. differential. If the average butterfat test of Class I milk or Class II milk as calculated pursuant to § 911.46 is more or less than 4 percent, there shall be added to, or subtracted from, as the case may be, the price for such class of utilization for each one-tenth of one percent that such average butterfat test is above or below 4 percent, a butterfat differential computed by multiplying the simple average, as computed by the market administrator, of the daily wholesale selling price per pound (using the midpoint of any price range as one price) of Grade A (92-score) bulk creamery butter at Chicago as reported by the United States Department of Agriculture during the

month specified below by the applicable factor listed, and rounding to the nearest one-tenth cent:

(a) Class I milk. Multiply such price for the preceding month by 0.125;

(b) Class II milk. Multiply price for the current month by 0.115.

§ 911.53 Location adjustment credit to handlers. For producer milk which is received directly from producers at a receiving station which meets the requirements established in § 911.6, located in Arnett, Oklahoma, and moved to an approved plant in the marketing area in the form of milk, skim milk and cream, the price specified in § 911.51 shall be subject to a location adjustment credit to the handler in the amount of thirtyfive (35¢) cents per hundredweight.

APPLICATION OF PROVISIONS

§ 911.60 Producer-handlers. Sections 911.40 through 911.46, 911.50 through 911.52, 911.61, 911.62, 911.70, 911.71 and 911.80 through 911.89 shall not apply to a producer-handler.

§ 911.61 Handlers subject to other orders. In the case of any handler who the Secretary determines disposes of a greater portion of his milk as Class I milk on wholesale or retail routes in another marketing area regulated by another milk marketing agreement or order issued pursuant to the Act, the provisions of this order shall not apply except as follows:

(a) The handler shall, with respect to his total receipts of skim milk and butterfat, make reports to the market administrator at such time and in such manner as the market administrator may require and allow verification of such reports by the market administrator.

(b) If the price which such handler is required to pay under the other Federal order to which he is subject, for skim milk and butterfat which would be classified as Class I milk under this order is less than the price provided by this order, such handler shall pay to the market administrator for deposit into the producer-settlement fund with respect to all skim milk and butterfat disposed of (except to other handlers) as Class I milk within the marketing area, an amount equal to the difference between the value of such skim milk or butterfat as computed pursuant to this order and its value as determined pursuant to the other order to which he is subject. Such payments shall be made on or before the 12th day after the end of each delivery period.

(c) For any other source skim milk or butterfat subtracted from Class I milk pursuant to § 911.46 (a) (3) and (b) add an amount equal to the difference between the values of such skim milk and butterfat at the Class I price and at the Class II price, unless the handler can prove to the satisfaction of the market administrator that such other source skim milk and butterfat was used only to the extent that producer milk was not available either directly from producers or at the plant of another handler at the Class I price.

§ 911.70 Net pool obligations of handlers operating approved plants. The net pool obligation for milk received during each month by each handler from producers at approved plants shall be a sum of money computed as follows:

(a) Multiply the pounds of milk in each class computed pursuant to § 911.46 (c) by the applicable respective class prices (adjusted pursuant to § 911.52) and add together the resulting amounts;

(b) Add an amount computed by multiplying the pounds of overage deducted from each class pursuant to § 911.46 (a) (6) by the applicable respective class

prices;

(c) Add a reclassification charge computed at a rate equal to the difference between the Class I and Class II prices for the current month for skim milk and butterfat in inventory which is subtracted from Class I pursuant to § 911.46 (a) (3) and the corresponding step of § 911.46 (b) which is not in excess of the skim milk and butterfat, respectively, remaining in Class Π milk in the previous month pursuant to § 911.46 (a) (4) and the corresponding step of § 911.46 (b)

§ 911.71 Computation of uniform prices for base milk and excess milk. For each month, the market administrator shall compute the uniform prices per hundredweight for base milk and excess milk as follows:

(a) Combine into one total the values computed pursuant to § 911.70 for all handlers who made the reports prescribed in § 911.30 and who made the payments pursuant to § 911.80 and § 911.84 for the preceding month.

(b) Add the aggregate of the values of all allowable location differential adjustments to producers pursuant to § 911.81.

(c) Add an amount equal to not less than one-half of the unobligated cash balance in the producer-settlement fund;

(d) Subtract if the average butterfat content of the milk included in these computations is greater than 4 percent: or add if such average butterfat content is less than 4 percent an amount computed by multiplying the amount by which the average butterfat content of such milk varies from 4 percent by the butterfat differential computed pursuant to § 911.82 and multiplying the resulting figure by the total hundredweight of such milk;

(e) Compute the total value on a 4 percent butterfat basis of the excess milk included in these computations by multiplying the hundredweight of such milk not in excess of the total quantity of Class II milk included in these computations by the price of Class II milk of 4 percent butterfat content, multiplying the hundredweight of such milk in excess of the total hundredweight of such Class II milk by the price of Class I milk of 4 percent butterfat content and adding together the resulting amounts;

(f) Divide the total value of excess milk obtained in paragraph (e) of this section by the total hundredweight of such milk and adjust to the nearest cent. The resulting figure shall be the uniform price for excess milk of 4 percent butterfat content received from producers;

(g), Subtract the value of excess milk obtained in paragraph (e) of this section from the value of all milk obtained in paragraph (d) of this section and adjust by any amount involved in adjusting the uniform price of excess milk to the nearest cent:

(h) Divide the amount obtained in paragraph (g) of this section by the total hundredweight of base milk included in these computations;

(i) Subtract not less than four (4e) cents nor more than five (5e) cents from the amount computed pursuant to paragraph (h) of this section. The resulting figure shall be the uniform price for base milk of 4 percent butterfat content received from producers.

PAYMENTS

§ 911.80 Time and method of payment. Each handler operating an approved plant shall make payment as follows:

(a) On or before the 12th day after the end of the month during which the milk was received, to each producer for whom payment is not made pursuant to paragraph (c) of this section, at not less than the applicable uniform prices computed pursuant to § 911.71 (f) and (i) for such producer deliveries of base milk and excess milk, respectively, adjusted by the butterfat differential computed pursuant to § 911.82, subject to the location differential adjustment to producers pursuant to § 911.81, and less the amount of the payment made pursuant to paragraph (b) of this section. If by such date, such handler has not received full payment pursuant to § 911.85, he may reduce his total payments uniformly to all producers by not more than the amount of the reduction in payment by the market administrator. He shall, however, complete such payments pursuant to this paragraph not later than the date for making such payments next following receipt of the balance from the market administrator.

(b) On or before the 27th day of each month, to each producer for whom payment is not made pursuant to paragraph (c) of this section, for milk received from him during the first 15 days of such month, at the approximate value of such milk.

(c) (1) Upon receipt of a written request from a cooperative association which the market administrator determines is authorized by its members to collect payment for their milk and receipt of a written promise to reimburse the handler the amount of any actual loss incurred by him because of any improper claim on the part of the cooperative, each handler shall (i) pay to the cooperative association on or before the 13th and 27th day of each month, in lieu of payments pursuant to paragraphs (a) and (b) respectively of this section an amount equal to the gross sum due for all milk received from certified members, less amounts owing by each memberproducer to the handler for supplies purchased from him or prior written order or as evidenced by a delivery ticket signed by the producer, (ii) submit to the cooperative association on or before the 10th day of each month written information which shows for each member-producer (a) the total pounds of milk received during the preceding

month, (b) the total pounds of butterfat contained in such milk, (c) the number of days on which such milk was received, (d) the amount of base and excess milk received and (e) the amounts withheld by the handler in payment for supplies sold, and (iii) submit to the cooperative association on or before the 25th day of each month written information which shows for each such memberproducer the total pounds of milk received during the first 15 days of the current month. The foregoing payment and submission of information shall be made with respect to milk of each producer whom the cooperative association certifies is a member, which is received on and after the first day of the calendar month next preceding receipt of notice from the cooperative association of a termination of membership or until the original request is rescinded in writing by the association.

(2) A copy of each such request, promise to reimburse and certified list of members shall be filed simultaneously with the market administrator by the cooperative and shall be subject to verification at his discretion, through audit of the records of the cooperative association pertaining thereto. Exceptions, if any to the accuracy of such certification by a producer claimed to be a member, or by a handler shall be made by written notice to the market administrator and shall be subject to his determination.

 \S 911.81 Location adjustments to producers. In making payments to producers in accordance with \S 911.80, each handler may deduct a sum of thirty-five $(35 \rlap{/}c)$ cents per hundredweight of milk purchased or received from producers at a receiving station meeting the requirements of \S 911.6 (c) located at Arnett, Oklahoma.

§ 911.82 Producer butterfat differential. In making payments pursuant to § 911.80 (a) there shall be added to or subtracted from the uniform prices per hundredweight for each one-tenth of one percent that the average butterfat content is above or below 4 percent an amount computed by multiplying by .12 the simple average, as computed by the market administrator, of the daily wholesale selling prices per pound (using the mid-point of any range as one price) of Grade A (92-score) bulk creamery butter at Chicago as reported by the United States Department of Agriculture during the month and rounding to the nearest one-tenth cent.

§ 911.83 Producer-settlement fund. The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to §§ 911.84, 911.86, 911.61 and 911.62, and out of which he shall make all payments to handlers pursuant to §§ 911.85 and 911.86: Provided, That the market administrator shall offset any such payment due to any handler against payments due from such handler. Immediately after computing the uniform price for each month, the market administrator shall compute the amount

by which each handler's net pool obligation is greater or less than the sum obtained by multiplying the hundred-weight of milk of producers by the appropriate prices required to be paid producers by handlers pursuant to § 911.80 and adding together the resulting amounts, and shall enter such amount on each handler's account as such handler's pool debit or credit, as the case may be, and render such handler a transcript of his account.

§ 911.84 Payments to the producersettlement fund. On or before the 12th day after the end of each month, each handler shall pay to the market administrator for payment to producers through the producer-settlement fund, the amount by which the net pool obligation of such handler is greater than the sum required to be paid producers by such handler pursuant to § 911.80.

§ 911.85 Payments out of the producer-settlement fund. (a) On or before the 12th day after the end of each month, the market administrator shall pay to each handler for payment to producers the amount by which the sum required to be paid producers by such handler pursuant to § 911.80 is greater than the net pool obligation of such handler.

(b) If the balance in the producersettlement fund is insufficient to make all payments pursuant to this paragraph, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds are available.

§ 911.86 Adjustment of errors in payments. (a) Whenever verification by the market administrator of reports or payments of any handler discloses error in payments to the producer-settlement fund made pursuant to § 911.84, the market administrator shall promptly bill such handler for any unpaid amount and such handler shall, within five (5) days of such billing, make payment to the market administrator of the amount so billed. Whenever verification discloses that payment is due from the market administrator to any handler pursuant to § 911.85, the market administrator shall, within five (5) days, make payment to such handler. Whenever verification by the market administrator of the payment by a handler to any producer discloses payment to such producer of an amount which is less than is required by this part, the handler shall make up such payment to the producer not later than the time of making payment to producers next following the disclosure.

(b) Whenever verification by the market administrator of the payment by a handler to any producer discloses that solely through error in computation payment to such producer was in an amount more than was required to be paid pursuant to § 911.80, no handler shall be deemed to be in violation of § 911.80 if he reduces his payment to such producer next following discovery of such error by not more than such overpayment.

§ 911.87 Marketing services. (a) Except as set forth in paragraph (b) of

this section, each handler shall deduct seven (7¢) cents per hundredweight, or such lesser amount as the Secretary may prescribe, from the payments made to each producer other than himself pursuant to § 911.80 (a) with respect to all milk of such producer received by such handler during the month and shall pay such deductions to the market administrator on or before the 12th day after the end of such month. Such moneys shall be used by the market administrator to verify weights, samples and tests of milk received from and to provide market information to such producers. The market administrator may contract with a cooperative association or cooperative associations for the furnishing of the whole or any part of such services.

(b) In the case of producers for whom a cooperative association is actually performing, as determined by the Secretary the services set forth in paragraph (a) of this section, each handler shall make such deductions from the payments to be made directly to producers pursuant to § 911.80 (a) as are authorized by such producers, and, on or before the 12th day after the end of each month, pay over such deductions to the association of which such producers are members. Such payment shall be accompanied by a statement showing for each producer for which such deduction is made the amount of such deduction, the total delivery of milk, and, unless otherwise previously provided, the butterfat test.

§ 911.88 Expense of administration. As his pro rata share of the expense of the administration of this part, each handler with respect to all milk received from producers, including a handler's own production and with respect to all receipts of other source milk classified as Class I, shall pay to the market administrator, on or before the 12th day after the end of each month, an amount not exceeding five (5¢) cents per hundredweight, which amount shall be determined by the market administrator subject to review by the Secretary.

Termination of obligation. § 911.89 The provisions of this section shall apply to any obligation under this part for the

payment of money. (a) The obligation of any handler to pay money required to be paid under the terms of this part shall, except as provided in paragraphs (b) and (c) of this section, terminate two years after the last day of the calendar month during which the market administrator receives the handler's utilization report on the milk involved in such obligation, unless within such two-year period the market administrator notifies the handler in writing that such money is due and payable.

Service of such notice shall contain, but need not be limited to, the following information.

- (1) The amount of the obligation;
- (2) The month(s) during which the milk, with respect to which the obligation exists, was received or handled; and
- (3) If the obligation is payable to one or more producers or to the association of producers, the name of such pro- ferred to a member(s) of such produc-

ducer(s) or association of producers, or if the obligation is payable to the market administrator, the account for which it is to be paid.

(b) If a handler fails or refuses, with respect to any obligation under this part, to make available to the market administrator or his representative all books and records required by this part to be made available, the market administrator may within the two-year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notifies a handler, the said two-year period with respect to such obligation shall not begin to run until the first day of the calendar month following the month during which all such books and records pertaining to such obligation are made available to the market administrator or his representa-

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a handler's obligation under this part to pay money shall not be terminated with respect to any transaction involving fraud or willful concealment of a fact, material to the obligation, on the part of the handler against whom the obligation is sought to be imposed.

BASE RATING

§ 911.90 Determination of daily base. (a) Effective January 1, 1955, and the same date of each succeeding year, the daily average base of each producer who regularly delivered milk to a handler for sixty (60) days or more during September through January of the next preceding year shall be computed by the market administrator by dividing the total pounds of milk received by a handler from such producer during such months by the number of days within the period for which such producer made deliveries of milk in such months, or ninety (90) days, whichever is greater.

(b) The daily average base of each producer for whom no daily base may be established pursuant to paragraph (a) of this section shall be computed by the market administrator as follows: multiply such producer's daily average deliveries of milk during the current month by the percentage that total deliveries of base milk in the current month by producers for whom daily bases are computed pursuant to paragraph (a) of this section are to total deliveries of milk in the current month by all producers, divided by two.

§'911.91 Base rules. The following rules shall apply in connection with the establishment of bases:

(a) A base shall apply to deliveries of milk by the producer for whose account that milk was delivered during the base forming period,

(b) Bases may be transferred only by notifying the market administrator in writing before the last day of any month that such base is to be transferred to the person named in such notice only as follows:

(1) In the event of the death, retirement, or entry into military service of a producer, the entire base may be trans-

er's immediate family who carries on the dairy operations.

(2) If a base is held jointly and such joint holding is terminated, the entire base may be transferred to one of the joint holders.

(3) The entire base of a producer who discontinues the production of Grade A milk may be transferred to a person who purchases the entire dairy herd of such producer by notifying the market administrator in writing on or before the first day of the month on which such transfer is to become effective. Such notice shall be signed by the transferor and transferee. The transferor may not be granted a new base under the provisions of § 911.90 (b) until he has been off the market for at least thirty (30) days.

(c) A producer who ceases to deliver milk to a handler for more than thirty (30) consecutive days shall forfeit his base. In the event such producer thereafter commences to deliver milk to a handler he shall be allotted a daily base computed in the manner provided in § 911.90 (b)

EFFECTIVE TIME, SUSPENSION OR TERMINATION

§ 911.100 Effective time. The provisions of this part, or any amendment to this part, shall become effective at such time as the Secretary may declare and shall continue in force until suspended, or terminated, pursuant to § 911.101.

§ 911.101 Suspension or termination. Any or all of the provisions of this part, or any amendment to this part, may be suspended or terminated as to any or all handlers after such reasonable notice as the Secretary shall give and shall, in any event, terminate whenever the provisions of the act cease to be in effect.

§ 911.102 Continuing power and duty of the market administrator (a) If, upon the suspension or termination of any or all provisions of this part there are any obligations arising under this part the final accrual or ascertainment of which requires further acts by any handler, by the market administrator, or by any other person, the power and duty to perform such further acts shall continue, notwithstanding such suspension or termination. Provided, That any such acts required to be performed by the market administrator shall, if the Secretary so directs, be performed by such other person, persons, or agency as the Secretary may designate.

(b) The market administrator, or such other person as the Secretary may designate, shall (1) continue in such capacity until removed, (2) from time to time account for all receipts and disbursements and when so directed by the Secretary deliver all funds on hand, together with the books and records of the market administrator, or such person, to such person as the Secretary shall direct, and (3) if so directed by the Secretary execute assignments or other instruments necessary or appropriate to vest in such person full title to all funds, property and claims vested in the market administrator or such person pursuant thereto.

§ 911.103 Liquidation after suspension or termination. Upon the suspension or termination of any or all provisions of this part the market administrator, or such person as the Secretary may designate, shall, if so directed by the Secretary liquidate the business of the market administrator's office and dispose of all funds and property then in his possession or under this control. together with claims for any funds which are unpaid or owing at the time of such suspension or termination. Any funds collected pursuant to the provisions of this part, over and above the amounts necessary to meet outstanding obligations and the expenses necessarily incurred by the market administrator or such person in liquidating such funds. shall be distributed to the contributing handlers and producers in an equitable manner.

MISCELLANEOUS PROVISIONS

§ 911.110 Separability of provisions. If any provision of this subpart, or its application to any person or circumstances, is held invalid, the application of such provisions and of the remaining provisions of this subpart to other persons or circumstances shall not be affected thereby

§ 911.111 Agents. The Secretary may by designation in writing, name any officer or employee of the United States to act as his agent or representative in connection with any of the provisions of this subpart.

Copies of this notice of hearing may be procured from the Hearing Clerk, United States Department of Agriculture, Room 1371, South Building, Washington 25, D. C., or may be there inspected.

Dated: January 5, 1955.

[SEAL]

ROY W LENNARTSON, Deputy Administrator

[F. R. Doc. 55-166; Filed, Jan. 7, 1955; 8:50 a. m.]

[7 CFR Part 928]

HANDLING OF MILK IN NEOSHO VALLEY
MARKETING AREA

ORDER DIRECTING THAT REFERENDUM BE CON-DUCTED AND DESIGNATION OF AGENT TO CONDUCT SUCH REFERENDUM

Pursuant to section 8c (19) of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S. C. 608c (19)) it is hereby directed that a referendum be conducted among the producers (as defined in the order regulating the handling of milk in the Neosho Valley marketing area) who, during the month of October 1954 were engaged in the production of milk for sale in the marketing area specified in the aforesaid order to determine whether such producers favor the issuance of the order, amending the order now in effect, which is a part of the decision of the Secretary of Agriculture issued December 17, 1954 (19 F R. 8779)

In that decision the month of October 1954 was determined to be the repre-

sentative period for the purpose of ascertaining whether the issuance of the said amending order is favored by producers.

W M. Costello is hereby designated agent of the Secretary to conduct such referendum in accordance with the procedure for the conduct of referenda to determine producer approval of milk marketing orders as published in the FEDERAL REGISTER on August 10, 1950 (15 F R. 5177) such referendum to be completed on or before the 10th day from the date this referendum order is issued.

Done at Washington, D. C., this 5th day of January 1955.

[SEAL]

EARL L. BUTZ, Assistant Secretary.

[F R. Doc. 55-167; Filed, Jan. 7, 1955; 8:51 a. m.]

[7 CFR Part 956]

[Docket No. AO 235-A1]

HANDLING OF MILK IN SIOUX FALLS-MITCHELL, S. DAK., MARKETING AREA

NOTICE OF RECOMMENDED DECISION AND OP-PORTUNITY TO FILE WRITTEN EXCEPTIONS WITH RESPECT TO PROPOSED AMENDMENTS TO TENTATIVE MARKETING AGREEMENT AND TO ORDER

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S. C. 601 et seq.) and the applicable rules of practice and procedure, as amended, governing the formulation of marketing agreements and marketing orders (7 CFR Part 900) notice is hereby given of the filing with the Hearing Clerk of the recommended decision of the Deputy Administrator, Agricultural Marketing Service, United States Department of Agriculture, with respect to proposals to amend the tentative marketing agreement and the order, regulating the handling of milk in the Sioux Falls-Mitchell, South Dakota, marketing area. Interested parties may file written exceptions to this decision with the Hearing Clerk, United States Department of Agriculture, Washington 25, D. C., not later than the close of business the 7th day after publication of this decision in the FEDERAL REGISTER. Exceptions should be filed in quadruplicate.

Preliminary statement. The hearing, on the record of which the following findings and conclusions were formulated, was conducted at Huron, South Dakota, on July 7-9, 1954, pursuant to notice thereof which was issued on June 15, 1954 (19 F R. 3767)

The material issues of record are concerned with

- 1. An extension of the marketing area.
- 2. The level of the Class I milk price.3. The level of the Class II and Class
- II-A milk prices.4. A revision of standards which a plant must meet in order to be qualified as an approved plant.
- 5. Providing for an individual handler pool for distribution of proceeds to producers.
- 6. A change in the conditions under which milk may be transferred from an

approved plant to an unapproved plant for Class II use.

7. Provisions applicable to the procedure for determining plant shrinkage.

8. The application of compensatory payments on Class I milk disposed of in the marketing area by handlers regulated under another order issued pursuant to the act.

Findings and conclusions. The following findings and conclusions on the material issues are based upon evidence contained in the record of the hearing:

1. The order should not be amended to provide for extension of the marketing area.

The marketing area now includes all the territory within the corporate limits of the cities of Sioux Falls and Mitchell, South Dakota. The numerous proposals contained in the notice of hearing would, in the aggregate, extend the marketing area to include the corporate limits of 16 additional cities or towns in South Dakota, 10 counties in Minnesota and 3 Minnesota communities outside these counties.

It was proposed that the South Dakota cities of Aberdeen, Huron, Redfield, Watertown, and Webster be either incorporated in a separate milk marketing order or made a part of the marketing area under the Sioux Falls order. As proposed at the hearing, major changes in the present order would be required to regulate the handling of milk in these five communities within the framework of its provisions. The record of the hearing does not justify the extensive modifications of the order necessary for such expansion of the marketing area. However, any new order for these Eastern South Dakota cities which may be issued should give proper regard to maintaining an alignment of class prices fixed under such order with the class prices fixed under the Sioux Falls-Mitchell order so that handlers under each of the orders may compete on an equal basis in communities in which they both operate.

A proposal by Sioux Falls handlers would extend the marketing area to include Luverne, Minnesota, and the South Dakota cities (in addition to the 5 mentioned above) of Brookings, Chamberlain, Dell Rapids, Flandeau, Pierre, Vermillion, and Viborg. The proponent handlers argued that their competition in these communities should be regulated so as to remove the advantage that they claim other handlers have over them. A general statement was made by a handler representative, but there was no detailed evidence presented at the hearing for including these communities under the order. Although some of the handlers now regulated by the order sell in these cities, it was not established on the record that marketing conditions in these cities warrant their inclusion in the marketing area at the present time.

Dairy farmers serving local handlers in the southwestern Minnesota cities of Luverne, Pipestone and Worthington proposed extension of the marketing area, contending that these cities should properly be part of it since the production area for these markets and the Sioux Falls market overlap and since Sioux Falls handlers distribute milk in these communities. Although they have taken steps to qualify as "A" producers, dairy farmers supplying handlers in Luverne, Pipestone, and Worthington are not approved Grade A producers. The milk produced by them is distributed as ungraded milk. The handlers who distribute such milk could not, therefore, be regulated under the order in the same manner as the Sioux Falls handlers distributing Grade A milk.

The Fergus Dairy Association of Fergus Falls, Minnesota, abandoned its proposal which was contained in the notice of hearing. This proposal would extend the marketing area to include 10 counties in Minnesota and certain additional communities in South Dakota. No testimony for or against expanding the marketing area to include any of this territory was put in evidence at the hearing.

2. The level of the Class I milk price should not be revised.

The order now provides for a Class I price per hundredweight of milk of 3.5 percent butterfat content to be determined by adding \$1.25 to the price for Class II milk. Producers proposed an increase of 20 cents per hundredweight in the Class I price.

The producer associations in both Sioux Falls and Mitchell, through negotiation with the handlers in their markets, have been obtaining prices above the minimums prescribed in the order for Class I milk. In Mitchell, handlers guaranteed producers a Class I price of \$4.50 per hundredweight for the months of May June and July 1954: For May the Class I price paid under this arrangement was 27 cents above the Class I price provided in the order. Handlers guaranteed the \$4.50 price because the retail price in the market was being maintained at the level of the higher price prevailing in the market prior to May 1, 1954. At the time of the hearing there was no indication that handlers in Mitchell would be paying above the minimum Class I price provided by the order after July.

Prices negotiated by Sioux Falls producers with handlers include payment by the handlers for specific services performed by them. A fee of 5 cents per hundredweight is paid by handlers on all milk received from producers' farms in bulk tanks. An additional 5 cents per hundredweight is paid by handlers to the producer association on all milk received by such handlers during the month. This is in the nature of a service payment to compensate for the association's receiving on Sundays, when the plants of such handlers are not in operation, the milk from producers normally shipping to their plants.

Maintaining the Class I price at the level now provided in the order will continue the alignment of the Class I price with those prevailing in the nearby Federal order markets of Sioux City and Omaha-Lincoln-Council Bluffs. In the intervening territory of 90 miles between Sioux Falls and Sioux City and in other nearby areas, handlers subject to regulation under the two Federal milk marketing orders are in direct competition for markets.

The Class I price is now announced for a hundredweight of milk of 3.5 percent butterfat content. Prices are also announced for hundredweights of butterfat and skim milk, respectively in Class I milk. In determining the amount of a handler's obligation for milk received from producers, it is necessary that the butterfat and skim milk values be computed separately

The uniform price under the order for producer milk is announced for milk containing 3.5 percent butterfat together with a butterfat differential by which prices are adjusted, up or down, respectively for each one-tenth of one percent that the producers' test is above or below 3.5 percent. The butterfat differential under the order used in this connection is computed by multiplying the daily average price for the month of 92-score butter at Chicago by 0.120.

The order should be revised to provide for adjustment of the announced Class I price by a butterfat differential. Although such a revision will result in no change in the level of the Class I milk price, it would simplify calculation of the Class I price for milk containing other than 3.5 percent butterfat.

3. The level of the Class II milk price should be reduced 15 cents per hundred-weight and such class should include all butterfat and skim milk heretofore defined as Class II and Class II-A milk.

The Class II price is now determined by a formula based on the average daily quotations for 92-score butter at Chicago and the average of the prices paid for nonfat dry milk solids at Chicago. For 1953 the Class II price averaged \$3.40. The Class II-A price now in the order is 25 cents below the Class II price.

As now provided in the order, Class II-A milk includes all skim milk and butterfat which during the months of February through July are used to produce butter, Cheddar cheese, animal feed, or skim milk powder and skim milk which is dumped. During 1953 the total producer milk classified as Class II-A was 6.5 million pounds containing 136 thousand pounds of butterfat. During the same year Class II disposition of producer milk was 10.2 million pounds containing 310 thousand pounds of butterfat.

Producers proposed that the provision for a Class II—A classification in the order be deleted, and all milk heretofore defined as Class II—A be included in Class II. Improved facilities in the market for handling surplus milk and the lower Class II price herein proposed make a separate Class II—A price unnecessary.

Producer organizations in the marketing area have the primary responsibility for disposition of surplus milk throughout the year. Except for small quantities of milk used for cottage cheese and ice cream mix, Sioux Falls handlers receive from producer members of the cooperative association only those quantities of milk needed for their daily fluid milk operations. Producer milk in excess of the handlers' requirements is received at the plant of the cooperative association. On Sundays when fluid milk plants in the market are not in operation all producer milk which is normally shipped to such plants is received at the cooperative association plant.

Extensive manufacturing operations are maintained in Sioux Falls by the Sioux Valley Cooperative Milk Producers Association. The cooperative separates all milk received at its plant, utilizing the skim milk in the manufacture of skim milk powder and distributing sweet cream throughout the State for frozen dessert manufacture and similar uses. Sweet cream for which the association has no market is churned into butter. During the periods of high production the cooperative is unable to handle all the producer milk transferred to its plant. At such times, milk is diverted to a manufacturing plant at Estherville, Iowa.

The producer association in Mitchell, James Valley Cooperative Milk Producers Association, does not operate a milk plant. When any producer milk is not needed by handlers for their fluid milk operations the excess is shipped by the cooperative to cheese factories at Dimock and Ethan. Losses suffered by the cooperative in marketing such producer milk are shared by all producers through reblending of the uniform price. This is likewise true in connection with distribution among producers of losses incurred in handling surplus milk by the Sioux Valley Cooperative.

Most handlers in the market have extremely limited facilities for handling any milk above that needed for their day to day fluid operations. A few handlers manufacture such by-products as cottage cheese and ice cream mix for the needs of their own trade. However, most milk not needed for fluid distribution in the market must be transferred or diverted from the plant at which it is usually received to a plant having adequate manufacturing facilities.

It is recognized that some milk in excess of Class I requirements is necessary in order to maintain an adequate supply of fluid milk for the market on an annual basis. The Class II price for such excess milk should be maintained at the highest level consistent with facilitating its movement to maintacturing outlets when it is not needed in the market for Class I purposes. The price, however, should not be so low that handlers will be encouraged to procure milk supplies solely for the purpose of converting them into Class II products.

The marketing and handling of surplus producer milk by the cooperative associations have been burdensome and costly. The value of milk for manufacturing purposes is indicated to some extent by the prices paid for ungraded milk in the area. In June 1954, the cooperative association in Sioux Falls paid \$2.60 per hundredweight for ungraded milk of 3.5 percent butterfat content received from dairy farmers. The Class II price under the order for the same delivery period was \$2.97.

It was claimed at the hearing that the Class II price under the order placed the Sioux Falls-Mitchell handlers in an unfavorable competitive position for such business. It is not likely that the level of the Class II price herein proposed will make the handling of Class II milk an attractive operation. The lower Class II price would, however, provide some relief to the cooperative associations who handle the surplus milk in the market.

Moreover, it will better enable handlers in the market to compete with unregulated handlers and handlers in other regulated markets in the sale of cream for use in frozen desserts and in similar Class II products.

Evidence adduced at the hearing emphasized the need for aligning the level of the Class II price under the Sioux Falls-Mitchell order with that provided in nearby other Federal order markets. The Class II pricing provisions in the Sioux City and Omaha-Lincoln-Council Bluffs orders are practically the same. effectuating orderly marketing throughout the overlapping territory in which the handlers in the nearby Federal order markets and Sioux Falls-Mitchell handlers operate, it is necessary to provide a Class II price approximating that in the nearby regulated markets. Under the amendment proposed herein the Class II formula would have resulted in an average price for the year 1953 of \$3.25 per hundredweight for milk containing 3.5 percent butterfat. This is the same price as would have resulted from the Class II price provision in the Sioux City order.

The Class II price is now announced for a hundredweight of milk of 3.5 percent butterfat content. Prices are also announced for hundredweights of butterfat and skim milk, respectively, in Class II milk. In determining the amount of a handler's obligation for milk received from producers it is necessary that the butterfat and skim milk values be computed separately Elsewhere in this decision it is provided that the Class I price be announced for milk containing 3.5 percent butterfat together with a butterfat differential by which prices are adjusted up or down, respectively for each one-tenth of 1 percent of such milk is above or below 3.5 percent.

The order should be revised to provide for adjustment of the announced Class II price by a butterfat differential. Although such a revision will result in no change in the Class II milk price, it would simplify the calculation of such price for milk containing other than 3.5 percent butterfat. The use of butterfat differentials as herein provided follows standard practices in most fluid milk markets for adjusting butterfat variations.

4. The standards which a plant must meet in order to be qualified as a pool plant should not be changed at this time.

A proposal at the hearing would provide that any plant from which fluid milk is distributed in the marketing area shall be fully subject to the provisions of the order. At the present time only those plants defined as "approved plants" under the order are fully subject to its provisions. Such plants are under the direct jurisdiction of a health authority in the marketing area, receive milk from producers which are under the inspection of such health authority and distribute milk in the marketing area. Any other plants from which Class I milk is distributed in the marketing area are defined as "unapproved plants."

If milk from an unapproved plant is disposed of as Class I milk in the marketing area, the operator of such plant is required to pay to the market administrator the difference in value between the Class I and Class II prices on such milk. Funds thus collected are distributed through the producer-settlement fund to all producers regularly associated with the market. Elsewhere in this decision it is proposed that such payments shall not be required on milk moved from unapproved plants which are regulated under the provisions of another Federal order.

The only testimony in support of the proposal to regulate unapproved plants distributing fluid milk in the marketing area was given in a short statement by a handler representative. He claimed that, "Without the new definition unapproved plants can, even though a compensatory payment be required, disrupt in-area markets by harassment while wresting from us our out-of-area market through the sale of cheaper, unregulated milk." No evidence adduced to indicate to what extent, if any, Class I milk was distributed in the marketing area from unapproved plants. Neither was it shown that the conditions complained of would be properly resolved by the proposed revision in the 'approved plant" definition.

5. No change should be made in the pooling provisions of the order relative to the distribution of proceeds to producers. The order now provides for the distribution of proceeds to producers through marketwide pooling whereby all producers in the market are paid on the basis of the same uniform price each month for their deliveries. This uniform price is determined from the collective utilization of producer milk at all the approved plants under the order. It was proposed that the order's marketwide pooling provision be replaced by a provision for an individual-handler pool. Distribution of returns to producers on an individual-handler pool basis would mean that each producer in the market would be paid the blend price determined from the utilization at the approved plant to which his milk is delivered.

Testimony at the hearing in support of an individual-handler pool was related principally to the contingency that the marketing area would be extended to include various communities in eastern South Dakota and southwestern Minnesota. As indicated in discussion of issue No. 1, the proposal to extend the marketing area is denied in this decision.

In both Sioux Falls and Mitchell payments received for producer deliveries are frequently reblended by the respective cooperative associations. In each of the markets, therefore, the blend prices paid by such associations to their producer members may be different from the uniform price announced pursuant to the order. Since practically all producers in the market are members of either of these two cooperative associations, an individual-handler pool provision would effect no advantage in the distribution of returns to producers that is not now being accomplished with marketwide pooling.

6. Some changes should be made in the transfer provisions of the order. As now provided, transfers or diversions of milk, skim milk, or cream to an unapproved plant located more than 100 miles from the marketing area are classified in Class I. Similar transfers or diversions within 100 miles of the marketing area may be classified in Class II if the buyer maintains records of utilization of all skim milk and butterfat at his plant, makes such records available to the market administrator for the purpose of verification, and uses not less than an equivalent amount of skim milk and butterfat as Class II milk at his plant during the month.

As proposed herein, classification in Class II of transfers or diversions as milk or skim milk to unapproved plants would be permitted if such unapproved plants are in the marketing area or are located not more than 100 miles from the nearest place in the marketing area. Classification in Class II of cream transferred in to an unapproved plant wherever located would be permitted when such cream is transferred without Grade A certification of any health authority The conditions now provided in the order requiring the buyer to maintain records of utilization, have such records available for audit, and use an equivalent amount of product in Class II during the month would be continued.

The change herein proposed would be appropriate and equitable for all handlers operating approved plants and will facilitate their disposing of surplus milk to unapproved plants. There is no evidence on the record that any milk or skim milk is transferred or diverted for Class II purposes to unapproved plants more than 100 miles from a point in the marketing area. It can reasonably be expected that any milk or skim milk moved to a point more than 100 miles from the marketing area will be used at its destination for Class I purposes. This has been the experience in the market. The limitation of 100 miles from the nearest point in the marketing area on Class II shipments of milk and skim milk to unapproved plants will provide adequate leeway for all handlers.

One proposal before the hearing would provide a Class II classification on any transfer from an approved plant to an unapproved plant, regardless of the disposition made of such transfer. Such a provision would be inconsistent with the overall intent of the classification provisions of the order: pricing milk according to its utilization. The effect of the change proposed by handlers would be to assign a lower price to any milk disposed of as Class I which was moved through an unapproved plant. There is no justification for such a provision within the framework of the order.

Cream from plants regulated by the order is shipped over a wide geographic area. Such shipments are utilized mainly in the manufacture of ice cream mix and similar products. Cream is sold in the same area from unregulated plants. Modifying the transfer provisions to permit, under specified conditions, a Class II classification on cream which is transferred without Grade A certification will facilitate the disposition of surplus cream by order handlers and enable them to compete on a more

equitable basis with unregulated handlers for cream markets.

7. The order language relative to shrinkage on producer milk which may be classified as Class II should be clarified. There has been some difference of opinion in the market as to the interpretation of the order regarding the procedure for determining shrinkage.

Milk received at a milk plant is a raw product which requires much handling in its processing and packaging before it is moved as fluid milk or some other milk product from the plant at which it is received from producers. Losses of product incurred in handling are generally referred to as shrinkage. Under the order shrinkage up to 2 percent of milk received from producers may be classified in Class II.

The order provides that before any shrinkage may be classified in Class II such shrinkage must have been established at the plant by "adequate plant records." In some instances this has been interpreted to mean that the specific loss incurred in each of the various operations in a plant be determined and recorded each day. Such a procedure is contrary to accepted practice in the industry and is not feasible.

In practice, shrinkage is determined by subtracting from the total receipts of skim milk and butterfat received by a handler the actual quantities of skim milk and butterfat accounted for as having been utilized or in inventory at his plant. A handler who maintains complete records of the utilization of all milk received at his plant may be deemed to have maintained the records necessary to establish plant shrinkage.

8. No compensatory payment should be required on milk classified and priced under another Federal milk marketing order. The order now provides for payment into the producer-settlement fund at the difference between the Class I and Class II prices on milk disposed of as Class I in the marketing area from an unapproved plant. Such payments are also required by operators of approved plants on other source milk allocated to Class I during the months of February through July, unless the handler can prove to the satisfaction of the market administrator that such other source milk was used only to the extent that producer milk was not available. These compensatory payment provisions now apply whether the other source milk is from the plant of a handler regulated by another Federal order or from the plant of an unregulated handler.

The minimum prices for Class I milk under the other Federal orders from which supplementary supplies might be obtained or from which Class I milk might be distributed on routes in the marketing area approximate the prices under the Sioux Falls-Mitchell order when allowance is made for the location of such plant and the transportation costs that would be involved. Since handlers under such other Federal orders must pay for milk on a classified pricing plan they are not in a position to unload surplus milk in the Sioux Falls-Mitchell market. If at any time supplies should become available from other regulated markets at lesser prices or the surplus of such markets is dumped upon the Sioux Falls-Mitchell market, it would become necessary to reexamine the price situation both in the Sioux Falls-Mitchell market and in the other market.

Rulings on proposed findings and conclusions. Written arguments and proposed findings and conclusions submitted on behalf of interested persons concerning issues on which decision is herein recommended were considered, along with the evidence in the record, in making the findings and reaching the conclusions herein set forth. To the extent that the proposed findings and conclusions differ from the findings and conclusions contained herein, the specific or implied requests to make such findings are denied because of the reasons stated in support of the findings and conclusions in this decision.

General findings. (a) The proposed marketing agreement and the order as hereby proposed to be amended and all of the terms and conditions thereof will tend to effectuate the declared policy of the act:

(b) The parity prices of milk as determined pursuant to § 2 of the act are not reasonable in view of the price of feeds, available supplies of feeds and other economic conditions which affect market supply of and demand for milk in the marketing area, and the minimum prices specified in the proposed marketing agreement and the order as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk and be in the public interest; and

(c) The proposed order as hereby proposed to be amended will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in a marketing agreement upon which a hearing has been held.

Recommended marketing agreement and order amending the order The following amended order is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out. The recommended marketing agreement is not included in this decision because the regulatory provisions thereof would be identical with those contained in the amended order.

1. Amend the order by adding a new section to read as follows:

§ 956.15 Chicago butter price. "Chicago butter price" means the simple average as computed by the market administrator of the daily wholesale selling prices (using the midpoint of any range as one price) per pound of 92-score bulk creamery butter at Chicago as reported during the month by the Department.

- 2. Delete § 956.22 (i) (1) and substitute therefor the following:
- (1) On or before the 5th day of each delivery period the Class I price and the Class I butterfat differential, both for the current delivery period; and the Class II price and the Class II butterfat differential, both for the preceding delivery period; and

- 3. Delete § 956.41 (b) and (c) and substitute therefor the following paragraph (b)
- (b) Class II milk. Class II milk shall be (1) all skim milk and butterfat (i) used to produce any milk product not specified in paragraph (a) of this section, (ii) in shrinkage not in excess of two percent of the total receipts of skim milk and butterfat in producer milk, other than that received from other handlers, (iii) in shrinkage in other source milk, and (iv) in inventory variation. and (2) all skim milk which is dumped or disposed of as livestock feed: Provided, That in the case of skim milk which is dumped the handler shall notify the market administrator in advance of his intention to dump such skim milk.
- 4. Delete § 956.43 and substitute therefor the following:

§ 956.43 *Transfers*. Skim milk or butterfat disposed of from an approved plant shall be classified:

- (a) As Class I milk if transferred in the form of products designated as Class I milk in § 956.41 (a) to an approved plant of another handler, except a producer-handler, unless utilization as Class II milk is claimed by both handlers in the reports submitted by them to the market administrator pursuant to \$956.30: Provided, That the skim milk or butterfat so assigned to Class II milk shall be limited to the amount thereof remaining in Class II milk in the plant of the transferee-handler after the subtraction of other source milk pursuant to § 956.46, and any additional amounts of such skim milk or butterfat shall be assigned to Class I milk: And provided further That if either or both handlers have received other source milk, the skim milk or butterfat so transferred shall be classified at both plants so as to allocate the greatest possible Class I milk utilization to the producer milk of both handlers.
- (b) As Class I milk if transferred to a producer-handler in the form of products designated as Class I milk in § 956.41 (a)
- (c) As Class I milk if transferred or diverted in bulk form as milk or skim milk to an unapproved plant located in the marketing area or not more than 100 miles by the shortest highway distance as determined by the market administrator from the nearest point in the marketing area unless:
- (1) The handler claims Class II on the basis of utilization mutually indicated in writing to the market administrator by both buyer and seller on or before the 6th day after the end of the month within which such transaction occurred;
- (2) The buyer maintains books and records showing the utilization of all skim milk and butterfat at his plant which are made available if requested by the market administrator for the purpose of verification, and
- (3) Not less than an equivalent amount of skim milk and butterfat was actually used as Class II milk in such buyer's plant.

- (d) As Class I milk if transferred in bulk form as cream to an unapproved plant unless:
- (1) Such cream is transferred without Grade A certification of any health authority
- (2) The handler claims Class II in his report submitted to the market administrator pursuant to § 956.30 on or before the 6th day after the end of the month within which such transaction occurred;
- (3) The buyer maintains books and records showing the utilization of all skim milk and butterfat at his plant which are made available if requested by the market administrator for the purpose of verification, and
- (4) Not less than an equivalent amount of skim milk and butterfat was actually used as Class II milk in such buyer's plant.
- 5. Delete § 956.46 and substitute therefor the following:
- § 956.46 Allocation of skim milk and butterfat classified. After computing the classification of all skim milk and butterfat received by a handler pursuant to § 956.45, the market administrator shall determine the classification of milk received from producers as follows:
- (a) Skim milk shall be allocated in the following manner:
- (1) Subtract from the total pounds of skim milk in Class II milk the pounds of skim milk determined pursuant to § 956.41 (b) (1) (ii)
- (2) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk received from approved plants of other handlers in a form other than milk, skim milk, or cream, according to its classification pursuant to § 956.41:
- (3) Subtract from the pounds of skim milk remaining in Class II milk the remaining pounds of skim milk in other source milk which was not subject to the Class I pricing provisions of an order issued pursuant to the act: Provided, That if the pounds of skim milk to be subtracted is greater than the remaining pounds of skim milk in Class II milk, the balance shall be subtracted from the pounds of skim milk in Class I milk;
- (4) Subtract from the pounds of skim milk remaining in Class II milk the pounds of skim milk in other source milk which was subject to the Class I pricing provisions of another order issued pursuant to the act: *Provided*, That if the pounds of skim milk to be subtracted is greater than the remaining pounds of skim milk in Class II milk, the balance shall be subtracted from the pounds of skim milk in Class I milk;
- (5) Subtract from the pounds of skim milk remaining in each class the skim milk received in milk, skim milk or cream from approved plants of other handlers according to its classification pursuant to § 956.43 (a)
- (6) Add to the pounds of skim milk remaining in Class II milk the pounds of skim milk subtracted pursuant to subparagraph (1) of this paragraph.
- (7) Subtract pro rata from the remaining pounds of skim milk in each class the pounds of skim milk contained in such handler's own production; and

- (8) If the pounds of skim milk remaining in both classes exceed the pounds of skim milk received in milk from producers, subtract such excess from the remaining pounds of skim milk in series beginning with Class II milk. Any amount so subtracted shall be known as "overage."
- (b) Butterfat shall be allocated in accordance with the same procedure outlined for skim milk in paragraph (a) of this section.
- (c) Add the pounds of skim milk and the pounds of butterfat allocated to producer milk in each class, respectively as computed pursuant to paragraphs (a) and (b) of this section and determine the weighted average butterfat content of the milk in each class.
- 6. Delete § 956.50 and substitute therefor the following:
- § 956.50 Class prices. Subject to the provisions of § 956.51 the class prices per hundredweight shall be as follows:
- (a) Class I milk price. The Class I milk price shall be the price computed pursuant to paragraph (b) of this section plus \$1.40.
- (b) Class II milk price. The Class II milk price shall be the price obtained by adding the amounts computed pursuant to subparagraphs (1) and (2) of this paragraph and rounding to the nearest cent.
- (1) Multiply the Chicago butter price by 1.25, subtract 8 cents, and multiply by 3.5.
- (2) For each full one-half cent that the price of nonfat dry milk solids is above 7 cents per pound multiply by 3 cents and add 17 cents thereto. price per pound of nonfat dry milk solids to be used shall be the simple average of carlot prices for nonfat dry milk solids for human consumption, both spray and roller process, delivered at Chicago as reported by the Department of Agriculture during the delivery period. In the event the Department does not publish carlot prices for nonfat dry milk solids for human consumption delivered at Chicago, there shall be used the weighted average of carlot prices per pound for nonfat dry milk solids, spray and roller process, for human consumption, f. o. b. manufacturing plants in the Chicago area as published for the period from the 26th day of the immediately preceding month through the 25th day of the current month, and 3 cents shall be added for each full one-half cent that the latter price is above 6 cents per pound.
- 7. Renumber § 956.51 and each reference to it contained in the order to "§ 956.52" and add a new § 956.51 to read as follows:
- § 956.51 Butterfat differentials to handlers. If the weighted average butterfat content of the milk received from producers classified, respectively in Class I-milk or Class II milk for a handler is more or less than 3.5 percent, there shall be added to, or subtracted from, the respective class price computed pursuant to § 956.50 for each one-tenth of 1 percent that such weighted average butterfat content is above or be-

- low 3.5 percent, a butterfat differential computed as follows:
- (a) Class I milk. Add 2.8 cents to the butterfat differential computed pursuant to paragraph (b) of this section for the preceding month.
- (b) Class II milk. Multiply the Chicago butter price for the current month by 0.125, subtract 0.8 cent and round to the nearest one-tenth cent.
- 8. Amend the order by adding two new sections under the heading "Application of Provisions" to read as follows:
- § 956.55 Handlers operating unapproved plants. None of the provisions from §§ 956.43 through 956.51, inclusive, or from §§ 956.60 through 956.70, inclusive, shall apply in the case of a handler in his capacity as the operator of an unapproved plant, except that such handler shall, on or before the 15th day after the end of each month, pay to the market administrator for deposit into the producer-settlement fund an amount calculated by multiplying the total hundredweight of butterfat and skim milk disposed of as Grade A Class I milk from such plant to retail or wholesale outlets (including plant stores) in the marketing area during the month, by the price arrived at by subtracting from the Class I price adjusted by the Class I butterfat differential the Class II price adjusted by the Class II butterfat differential.
- § 956.56 Plants subject to other Federal orders. In the case of any plant which the Secretary determines disposes of a greater portion of its milk as Class I milk on retail or wholesale routes (including plant stores) in another marketing area regulated by another order issued pursuant to the act than is disposed of as Class I milk on retail or wholesale routes (including plant stores) in the Sioux Falls-Mitchell marketing area, the provisions of this order shall not apply except as follows: The operator of such plant shall, with respect to the total receipts and utilization of skim milk and butterfat at the plant, make reports to the market administrator at such time and in such manner as the market administrator may require (in lieu of the reports required pursuant to § 956.30) and allow verification of such reports by the market administrator.
- 9. Delete § 956.60 and substitute therefor the following:
- § 956.60 Computation of the value of milk for each handler For each month the market administrator shall compute the value of milk for each handler as follows:
- (a) Multiply the quantity of milk in each class computed pursuant to § 956.46 (c) by the applicable class price, and add together the resulting amounts;
- (b) Add the amounts computed by multiplying the pounds of overage deducted from each class pursuant to § 956.46 (a) (8) and (b) by the applicable class prices; and
- (c) During the months of February through July add an amount computed as follows: Multiply the hundredweight of skim milk and butterfat subtracted from Class I milk pursuant to § 956.46 (a) (3) and (b) by the price arrived at

by subtracting the Class II price adjusted by the Class II butterfat differential from the Class I price adjusted by the Class I butterfat differential.

10. In § 956.68 delete the phrase "payments made by handlers pursuant to §§ 956.69 and 956.71" and substitute therefor "payments made by handlers pursuant to §§ 956.55, 956.69 and 956.71."

11. Delete § 956.69 and substitute therefor the following:

§ 956.69 Payments to the producersettlement fund. On or before the 10th day after the end of each delivery period each handler who operates an approved plant shall pay to the market administrator for payment to producers through the producer-settlement fund the amount, if any by which the total value computed for him pursuant to § 956.60 for such delivery period is greater than the sum required to be paid by such handler pursuant to § 956.65.

Issued at Washington, D. C., this 5th day of January 1955.

[SEAL]

ROY W LENNARTSON, Deputy Administrator

[F R. Doc. 55-169; Filed, Jan. 7, 1955; 8:51 a. m.]

[7 CFR Part 959]

[AO-158 A-2]

POTATOES GROWN IN COUNTIES OF CROOK, DESCHUTES, JEFFERSON, KLAMATH, AND LAKE IN OREGON AND MODOC AND SISKI-YOU IN CALIFORNIA

NOTICE OF HEARING WITH RESPECT TO PRO-POSED AMENDMENTS TO MARKETING AGREEMENT NO. 114 AND ORDER NO. 59, AS AMENDED

Pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended: 7 U. S. C. 601 et seq.) and in accordance with the applicable rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders (7 CFR 900 et seq.) notice is hereby given of a public hearing to be held in the Conference Room, 4th Floor, Ross Building, 209 S. W Fifth Avenue, Portland, Oregon, beginning at 9:30 a. m., P s. t., January 31, 1955, with respect to proposed amendments to Marketing Agreement No. 114, and Order No. 59, as amended (7 CFR Part 959) hereinafter referred to as the "marketing agreement" and "order," respectively, regulating the handling of Irish potatoes grown in the Counties of Crook, Deschutes, Jefferson, Klamath and Lake in Oregon and Modoc and Siskiyou in Califorma. The proposed amendments have not received the approval of the Secretary of Agriculture.

The public hearing is for the purpose of receiving evidence with respect to the economic and marketing conditions which relate to the provisions of the proposed amendments, which are hereinafter set forth, and appropriate modifications thereof.

The Oregon-California Potato Committee, the administrative agency

established pursuant to the marketing agreement and order, has proposed the following amendments to said marketing agreement and order and has requested a hearing thereon:

1. Amend § 959.1 Secretary to read as follows:

§ 959.1 Secretary. "Secretary" means the Secretary of Agriculture of the United States or any officer or employee of the United States Department of Agriculture to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

2. Amend § 959.4 Production area to read as follows:

§ 959.4 Production area. "Production area" means and includes all counties, except Malheur, in the State of Oregon, and Modoc and Siskiyou Counties in the State of California.

3. Amend § 959.7 Ship or handle to read as follows:

§ 959.7 Ship or handle. "Ship" or "handle" means to sell or transport potatoes within the production area or between the production area and any point outside thereof.

4. Amend § 959.9 Fiscal year to read as follows:

§ 959.9 Fiscal period. "Fiscal period" means the period beginning and ending on the dates approved by the Secretary pursuant to recommendations by the administrative committee.

5. Amend §§ 959.14 and 959.15 by deleting the present provisions and substituting therefor the following:

§ 959.14 Pack. "Pack" means a unit of potatoes in any type of container and which falls within specific weight limits or within specific grade limits recommended by the committee and approved by the Secretary.

6. Add a new § 959.15 reading as follows:

§ 959.15 Container "Container" means a sack, bag, crate, box, basket, barrel, or bulk load or any other type of container which is used to hold or to transport potatoes for market purposes.

7. Add a new § 959.17 reading as follows:

§ 959.17 Grading. "Grading" is synonymous with "preparing for market" which means the sorting or separating of potatoes into grades, sizes and shapes for market purposes."

8. Renumber §§ 959.17 Export and 959.18 District to §§ 959.18 Export and 959.19 District.

9. Amend § 959.25 (a) by deleting the present provisions and substituting therefor the following:

§ 959.25 Establishment and membership. (a) The Oregon-California Potato Committee consisting of twelve members, of whom eight shall be producers and four shall be handlers, is hereby established. For each member of the committee there shall be an alternate who shall have the same qualifications as the member.

10. Amend § 959.26 (a) to read as follows:

§ 959.26 Procedure. (a) Eight members of the committee shall be necessary to constitute a quorum and eight concurring votes will be required to pass any motion or approve any committee action.

11. Amend § 959.27 (b) to read as follows:

(b) The Secretary shall select three producer members of the committee, with their respective alternates, from District No. 1, two producers, with their alternates, from Districts No. 2 and No. 4, and one producer member, with his respective alternate, from District No. 3. The Secretary shall also select one handler member of the committee, with his respective alternate, from Districts 1, 2, 3, and 4.

12. Amend § 959.28 (a) to read as follows:

§ 959.28 Term' of office. (a) The term of office of committee members and alternates shall be two years beginning July 1 and ending June 30. After the effective date of this amendment, the producer member of the committee, with an alternate, representing District No. 3 shall be nominated and selected to serve until the following June 30, and the handler member, with an alternate, representing District No. 3 shall be nominated and selected to serve until the second following June 30 · Provided, That the term of office of five members of the committee, with the same number of alternates from the same districts, incumbents on the effective date of this amendment shall terminate as of the following June 30, and the term of office of five members of the committee, with the same number of alternates, incumbent on the effective date of this amendment shall terminate as of the second June 30 following the effective date.

13. Add two new paragraphs (k) and (l) to § 959.30 reading as follows:

(k) Provide for the establishment of marketing research and development projects designed to assist, improve, or promote the marketing, distribution, and consumption of potatoes and for the establishment of subcommittees of committee members and alternates for the purpose of consulting with Federal, State, and other appropriate agencies in the carrying out of such projects.

(1) To establish subcommittees of committee members and alternates for the purpose of consulting and cooperating with Federal, State, and other appropriate agencies in recommending the size, capacity weight, dimensions or pack of the container or containers which may be used for handling potatoes under this program.

14. Amend § 959.32 (a) to read as follows:

§ 959.32 Districts. (a) For the purpose of selecting committee members, the following districts of the production area are hereby initially established.

District No. 1. The Counties of Crook, Deschutes, and Jefferson in the State of Oregon;

District No. 2. The Counties of Klamath and Lake in the State of Oregon;

District No. 3. All remaining counties in the State of Oregon, with the exception of

Malheur County;
District No. 4. The Counties of Modoc and Siskiyou in the State of California.

15. Amend § 959.33 (a) to read as follows:

§ 959.33 Nomination. (a) Nominations for the new members and alternates of the committee, provided for in § 959.28 (a) may be submitted by producers or handlers, as the case may be, or groups thereof, residing in District No. 3, on an elective basis, or otherwise.

16. Amend §§ 959.40 to 959.44. inclusive, to read as follows:

§ 959.40 Expenses. The committee is authorized to incur such expenses as the Secretary may find are reasonable and likely to be incurred by it during each fiscal period for the maintenance and functioning of such committee and for such purposes as the Secretary, pursuant to this subpart, determines to be appropriate. Handlers shall share expenses on the basis of each fiscal period. Each handler's share of such expense shall be proportionate to the ratio between the total quantity of potatoes shipped during a fiscal period by him as the first handler thereof and the total quantity of potatoes shipped during such fiscal period by all handlers as first handlers thereof.

§ 959.41 Budget. At the beginning of each fiscal period and as may be necessary thereafter, the committee shall prepare an estimated budget of income and expenditures necessary for the administration of this part. The committee may recommend to the Secretary a rate or rates of assessment calculated to provide adequate funds to defray its proposed expenditures. The committee shall present such budget to the Secretary with an accompanying report showing the basis for its calculations.

§ 959.42 Assessments. (a) The funds to cover such expenses shall be acquired by the levying of assessments upon handlers as provided in this subpart. Each handler who first ships potatoes shall pay assessments to the committee upon demand, which assessments shall be in payment of such handler's pro rata share of the committee's expenses.

(b) Assessments shall be levied upon handlers at rates established by the Secretary. Such rates may be established upon the basis of the committee's recommendations and other available information. Such rates may be applied equitably to each pack or unit.

(c) At any time during, or subsequent to, a given fiscal period the committee may recommend the approval of an amended budget and an increase in the rate of assessment. Upon the basis of such recommendations, or other available information, the Secretary may approve an amended budget and increase the rate of assessment. Such increase shall be applicable to all potatoes which were regulated under this part and which were shipped by the first handler thereof during such fiscal period.

§ 959.43 Accounting. (a) All funds received by the committee pursuant to the provisions of this subpart shall be used solely for the purposes specified in this part.

(b) The Secretary may at any time require the committee, its members and alternates, employees, agents, and all other persons to account for all receipts and disbursements, funds, property or records for which they are responsible. Whenever any person ceases to be a member or alternate of the committee he shall account for all receipts, disbursements, funds, and property (in-cluding but not being limited to books and other records) pertaining to such committee's activities for which he is responsible and shall execute such assignments and other instruments as may be necessary or appropriate to vest in such successor, agency or person designated by the Secretary, the right to all of such property and funds and all claims vested in such person.

(c) The committee may make recommendations to the Secretary for one or more of the members thereof, or any other person, to act as a trustee for holding records, funds, or any other committee property during periods when regulations are not in effect and, if the Secretary determines such action appropriate, he may direct that such person or persons shall act as trustee or trustees for the committee.

§ 959.44 Refunds. At the end of each fiscal period or other representative period used by the committee as a basis for seasonal accounting, monies arising from the excess of assessments over expenses shall be accounted for as follows:

(a) Each handler entitled to a proportionate refund of the excess assessments at the end of a fiscal period shall be credited with such refund against the operation of the following fiscal period unless he demands payment thereof, in which event such proportionate refund shall be paid to him, or

(b) The Secretary, upon recommendation of the committee, may determine that it is appropriate for the maintenance and functioning of such committee that some of the funds remaining at the end of a fiscal period which are in excess of the expenses necessary for operations during such period may be carried over into following periods as a reserve for possible liquidation. Upon approval by the Secretary such reserve may be used upon termination of this part to liquidate the affairs of the committee: Provided, That upon termination of this part any monies in the reserve for liquidation which are not required to defray the necessary expenses of liquidation shall to the extent practical be returned upon a pro rata basis to all persons from whom such funds were collected.

17. Amend §§ 959.50 to 959.53, inclusive, to read as follows:

§ 959.50 Marketing policy—(a) Preparation. Prior to each marketing season the committee shall consider and prepare a proposed policy for the marketing of potatoes. In developing its marketing

policy the Committee shall investigate relevant supply and demand conditions for potatoes. In such investigations the committee shall give appropriate consideration to the following:

(1) Market prices for potatoes, including prices by grade, size, and quality in different packs, or in different containers, or any other shipping unit;

(2) Supply of potatoes by grade, size, and quality in the production area and in other production areas:

(3) The trend and level of consumer income:

(4) Establishing and maintaining orderly marketing conditions for potatoes;

(5) Orderly marketing of potatoes as will be in the public interest; and

(6) Other relevant factors.

(b) Reports. (1) The committee shall submit a report to the Secretary setting forth the aforesaid marketing policy and it shall notify producers and handlers of the contents of such report.

(2) In the event it becomes advisable to shift from such marketing policy because of changed supply and demand conditions, the committee shall prepare a new marketing policy in accordance with the manner previously outlined. The committee shall submit a report thereon to the Secretary and notify producers and handlers on the contents of such report on the revised or amended marketing policy

§ 959.51 Recommendations for regulations. The committee shall recommend to the Secretary grade, size, and quality regulations, or amendments thereto, or modifications thereof, whenever it finds that such regulations, as provided in § 959.52, will tend to effectuate the declared policy of the act. The committee also may recommend modification, suspension, or termination of any regulation, or amendments thereto, in order to facilitate shipments of potatoes for the purposes authorized in § 959.54. The committee may also recommend amendment, termination, or suspension of any regulation issued under this part.

§ 959.52 Issuance of grade, size, and quality regulations. (a) The Secretary shall limit the shipment of potatoes whenever he finds from the recommendations and information submitted by the committee, or from other available information, that such regulation would tend to effectuate the declared policy of the act. Such limitation may

(1) Regulate in any or all portions of the production area, the shipment of particular grades, sizes, or qualities of any or all varieties of table stock or of seed potatoes, or both, during any period;

or

(2) Regulate the shipment of particular grades, sizes, or qualities of potatoes differently, for different varieties, for table stock, for seed, for different portions of the production area, for different packs, for different sizes and types of containers, or for any combination of the foregoing, during any period;

(3) Provide a method through rules and regulations issued pursuant to this part for fixing the size, capacity weight.

dimensions, or pack of the container, or containers, which may be used in the packaging or handling of potatoes, or both, or

(4) Regulate the shipment of potatoes by establishing, in terms of grades, sizes, or both, minimum standards of quality and maturity.

(b) The Secretary may amend any regulation issued under this subpart whenever he finds that such regulation would tend to effectuate the declared policy of the act. The Secretary may also terminate or suspend any regulation whenever he finds that such regulation obstructs or no longer tends to effectuate the declared policy of the act.

(c) The Secretary shall notify the committee of any such regulation issued pursuant to this section and the committee shall give reasonable notice poses the following amendments: thereof to handlers.

18. Renumber §§ 959.54 Minimumquantities and 959.55 Shipments for specified purposes to §§ 959.53 Minimum quantities and 959.54 Shipments for specified purposes.

- 19. Amend § 959.54 (a) (1) to read as follows:
- (1) Shipments of potatoes for the purpose of having such potatoes graded or stored within the production area or within any portion thereof.
- 20. Amend § 959.60 Inspection and certification to read as follows:

§ 959.60 Inspection and certification. (a) During any period in which shipments of potatoes are regulated pursuant to §§ 959.42, 959.52, or 959.54, or any combination thereof, no handler shall ship potatoes unless each such shipment is inspected by an authorized representative of the Federal-State Inspection Service, or such other inspection service as the Secretary shall designate, except when relieved from such requirements pursuant to § 959.53 or § 959.54 or both.

(b) Regrading, resorting, or repacking any lot of potatoes shall invalidate any prior inspection certificates insofar as the requirements of this section are concerned. No handler shall ship potatoes after they have been regraded, resorted, repacked, or in any way further prepared for market, unless each shipment of such potatoes is inspected by an authorized representative of the Federal-State Inspection Service, or such other inspection service as the Secretary shall designate.

(c) Insofar as the requirements of this section are concerned, the length of time for which an inspection certificate is valid may be established by the marketing committee with the approval of the Secretary

(d) When potatoes are inspected in accordance with the requirements of this section, a copy of each inspection certificate issued shall be made available to the committee by the inspection service.

21. Amend § 959.70 by inserting "(a)" after the title Effective time and by adding paragraph (b) to read as follows:

(b) All rules and regulations issued by the Secretary pursuant to Order No. 59, as amended, which are in effect immediately prior to the date of this amendment shall continue in effect under this subpart as originally issued, or subsequently modified until such rules and regulations are changed, modified, or suspended in accordance with this subpart.

22. Sections 959.1 through 959.88 shall be renumbered as may be required by these amendments and reference to such sections may be renumbered throughout the text of Order No. 59, as required by any amendments thereto.

23. Make such other changes in the marketing agreement and order as may be necessary because of the proposed expansion of the production area (Proposal No. 2)

The Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, pro-

1. Make such other changes in the marketing agreement and order as may be necessary to make the entire marketing agreement and order conform with any amendments thereto which may result from this hearing.

2. Amend the citation in § 959.2 Act to read as follows: "(48 Stat. 31, as amended; 7 U. S. C. 601 et seq., 68 Stat. 906, 907, 1047) "

Copies of this notice may be obtained from the Western Marketing Field Office, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, 515 Southwest Tenth Avenue, Portland 5, Oregon, or from the Hearing Clerk, Room 1353, South Building, United States Depart-ment of Agricultural, Washington 25, D. C., or may be there inspected.

Issued at Washington, D. C., this 6th day of January 1955.

[SEAL]

ROY W LENNARTSON, Deputy Administrator

R. Doc. 55-210; Filed, Jan. 7, 1955; 8:52 a. m.]

[7 CFR Part 964]

[Docket No. AO-258]

ORDER 1 REGULATING HANDLING OF DRIED FIGS PRODUCED IN CALIFORNIA

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AUTHORITY: §§ 964.0 to 964.90 issued under sec. 5, 49 Stat. 753, as amended; 7 U.S. C. 608c.

§ 964.0 Findings and determinations—(a) Findings upon the basis of the hearing record. Pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S. C. 601 et seg.) and the applicable rules of practice and procedure effective thereunder (7 CFR, Part 900; 19 F R. 57) a public hearing_was held at Fresno, California, from June 15 to June 18, 1954, both dates inclusive, upon a proposed marketing agreement and a proposed marketing order regulating the handling of dried figs produced in California. Upon the basis of the evidence adduced at such

¹ This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been

hearing, and the record thereof, it is found that:

- (1) This marketing order, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act:
- (2) This marketing order regulates the handling of dried figs in the same manner as, and is applicable only to the persons in the respective classes of industrial and commercial activities specified in, the proposed marketing agreement and order upon which a hearing has been held;
- (3) This marketing order is limited in its application to the smallest regional production area which is practicable, consistently with carrying out the declared policy of the act, and the issuance of several orders applicable to subdivisions of the production area would not carry out the declared policy of the act effectively.
- (4) There are no differences in the production and marketing of dried figs in the production area covered by the marketing order which would require different terms applicable to different parts of such area, and
- (5) The handling of all dried figs produced in California is either in the current of interstate or foreign commerce, or directly burdens, obstructs, or affects such commerce. It is hereby recognized, however, that this program will be operated in conjunction with the State of California Marketing Order for Dried Figs as amended July 22, 1953, or as it may be amended thereafter, and that the two programs will complement each other pursuant to the provisions of section 10 (i) of the act.

It is therefore, ordered, That, on and after the effective date hereof, the handling of dried figs produced in California shall be in conformity to, and in compliance with, the terms and conditions of this order and the terms and conditions of said order are as follows:

DEFINITIONS

§ 964.1 Secretary. "Secretary" means the Secretary of Agriculture of the United States, or any officer or employee of the Department to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

§ 964.2 Act. "Act" means Public Act No. 10, 73d Congress, as amended and reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq., 68 Stat. 906, 1047)

§ 964.3 *Person*. "Person" means an individual, partnership, corporation, association or any other business unit.

§ 964.4 Natural condition dried figs. "Natural condition dried figs" means and includes all figs produced in California which have been dried, either by sundrying or artificial dehydration, to the extent necessary to inhibit rapid spoilage by fermentation, mold, souring or like cause and which have not been processed.

§ 964.5 Processed dried figs. "Processed dried figs" means all dried figs which have been cleaned, or treated with water or steam, or otherwise treated in preparation for market by a handler Provided, That dried figs shall not become processed dried figs at the time they are cleaned by a producer in the course of preparing them for delivery to a producer or handler.

§ 964.6 Dried figs. "Dried figs" means and includes all natural condition dried figs and all processed dried figs produced in California.

§ 964.7 Variety. "Variety" means dried figs of any one of the following kinds: Kadota, Calimyrna, Black Mission, Adriatic, or any kind or strain similar or related thereto.

§ 964.8 Acquire. "Acquire" means to obtain physical possession by purchase, storage arrangement, or otherwise, of natural condition dried figs as the first handler thereof.

§ 964.9 Producer "Producer" means any person engaged in a proprietary capacity in the business of producing or causing to be produced for market natural condition dried figs as herein defined and for the purpose of this part shall also include a dry yard operator and any other person who buys or receives figs, dried or otherwise, for the purpose of drying, curing, sorting, or otherwise preparing natural condition dried figs for his own account.

§ 964.10 Handler "Handler" means any person who acquires natural condition dried figs, processes, packages, sells, consigns, transports, ships or in any other way places dried figs in the current of commerce (except as a carrier of dried figs owned by another person), whatever may be the ultimate destination or end use of the dried figs, provided that the term handler shall not include the following persons when dealing with dried figs in the following manner: (a) Any producer selling or delivering natural condition dried figs to another producer, or to a handler within the State of California, (b) any producer receiving or obtaining natural condition dried figs from another producer (c) any person engaging in the further handling of processed dried figs which have previously been inspected and certificated as processed dried figs pursuant to the provisions of this part and which have been shipped or otherwise finally disposed of by a handler (d) any person engaging in manufacturing from dried figs, byproducts thereof which are not used for human consumption; (e) any person converting dried figs into distilled spirits; and (f) the State of California, the Dried Fig Advisory Board and its agents and such persons as may obtain dried figs from them in carrying out the functions of the State of California Marketing Order for Dried Figs, as Amended.

§ 964.11 *Handle*. "Handle" means to perform one or more of the functions of a handler.

§ 964.12 Crop year "Crop year" means the 12-month period beginning

August 1 of any year and ending July 31 of the following year 'Provided, That the first crop year shall begin at the effective time of this subpart.

§ 964.13 Part and subpart. "Part" means the order regulating the handling of dried figs produced in California, and all rules, regulations, and supplementary orders issued thereunder. This order regulating the handling of dried figs produced in California shall be a "subpart" of such part.

DRIED FIG ADMINISTRATIVE COMMITTEE

§ 964.20 Establishment of Dried Fig Administrative Committee. A Dried Fig Administrative Committee, hereafter referred to as the committee, consisting of 10 members with an alternate member for each such member, is hereby established to administer the terms and provisions of this part, of whom, with their respective alternates, five shall represent producers and five shall represent handlers. The committee may nominate and recommend for appointment an eleventh member of the committee who need not be a producer nor a handler. There shall be an alternate member for each member of the committee except the eleventh member.

§ 964.21 Selection of members of the committee—(a) Initial members. The initial producer and handler members of the committee and their respective alternates shall be the same as the producer and handler members and their respective alternates of the Dried Fig Advisory Board under the Marketing Order for Dried Figs, as Amended, established under the provisions of the Califorma Marketing Act of 1937, as Amended, who are serving in such capacities at the effective time hereof, including the eleventh member of such Dried Fig Advisory Board if there be such an eleventh member. The initial 10 members of the committee and their respective alternates shall hold office for a term ending May 31, 1955 and until their successors shall be selected and shall qualify. The eleventh member, if any, shall hold office for a term ending May 31, 1955.

(b) Term of office of successor members. The successors of the 10 original members and their respective alternates shall be selected annually by the Secretary for a term of one year beginning June 1 and shall serve until their respective successors shall be selected and shall qualify and in the event the committee shall nominate an eleventh member he may be selected by the Secretary for the balance of such year.

(c) Selection of successor members. Selection of the 10 successor members of the committee, and their respective alternates, shall be made by the Secretary for the producer and handler groups from the nominations submitted for that purpose by those groups, or from among other qualified persons, in the discretion of the Secretary but such selections shall be made upon the basis of the representation provided for in §§ 964.22, 964.23, and 964.25.

§ 964.22 Eligibility. Each producer member and alternate producer mem-

ber of the committee shall be during his term of office a producer in the district from which he is appointed and a major portion of his income from or interest in the dried fig industry shall be as a producer. Each handler member and alternate handler member of the committee shall be either a handler of dried figs or an employee or agent of a handler of dried figs actually engaged in the handling of dried figs while he is such member or alternate member, and whose primary interest in the dried fig industry is that of a handler.

§ 964.23 Producer representation. Producer representation on the committee shall be by districts as described in this section or as such districts may be changed by recommendation of the committee with the approval of the Secretary to maintain equitable representation based on production. District No. 1 shall have two members and two alternate members and shall include all of the area of California north of the northern boundaries of Monterey, San Benito, Fresno and Inyo Counties. District No. 2 shall have three members and three alternate members and shall include the counties of Monterey, San Benito, Fresno and Inyo and all counties south thereof.

§ 964.24 Nomination of successors to initial producer members of the committee-(a) Nomination meetings. Nominations for producer members and alternate producer members of the committee subsequent to the initial members and alternates, shall be made at a meeting or meetings of producers held in each of the foregoing districts. Such meetings shall be called by the committee at such times and at such places within such districts as the committee shall designate, prior to May 1 of each year. The producers at each of such meetings shall select a chairman and secretary therefor. After nominations have been made, the committee shall transmit forthwith to the Secretary its certificate showing the name of each person for whom votes have been cast, whether as a member or as alternate for a member, and the number of votes received by each such person.

(b) Producer voting in nomination meetings. In the nomination of producer members and alternate producer members of the committee, each producer shall be entitled to cast one vote for each member position and one vote for each alternate member position in the district in which he produces dried figs. Only producers who are personally present at such nomination meetings shall be entitled to vote for nominees. Each producer shall be entitled to vote only in one district and only for the nominees to be elected in such district.

§ 964.25 Handler representation. Handler representation on the committee may be without regard to districts but insofar as may be practical shall be representative of handlers generally.

§ 964.26 Nomination of successors to initial handler members. The committee shall cause to be held each year prior

to May 1, a meeting or meetings of handlers affected by this part for the purpose of obtaining nominations of persons to serve as handler members and alternate members of the committee.

§ 964.27 Failure to nominate. In the event nominations for any positions on the committee except that of the eleventh member, are not received by May 5, the Secretary may select such members and their alternates without regard to nominations but each such selection shall be on the applicable basis prescribed in §§ 964.22, 964.23, and 964.25.

§ 964.28 Acceptance. Each person selected as a member or alternate member of the committee shall, prior to serving on the committee, qualify by flling with the Secretary a written acceptance within 15 days after receiving notice of his selection.

§ 964.29 Alternates. An alternate member of the committee shall act in the place and stead of the member for whom he is an alternate (a) during his absence, or (b) in the event of his removal, resignation, disqualification, or death until a successor for such member's unexpired term has been selected and has qualified.

§ 964.30 Vacancies. In the event of any vacancy occasioned by the failure of any person selected as a member or alternate member of the committee to qualify or by the removal, resignation, disqualification, or death of any member or alternate member, a successor for such person's unexpired term shall be nominated within 60 calendar days after such vacancy occurs and selected in the manner provided in this subpart insofar as applicable.

§ 964.31 Obligations. Upon the removal, resignation, disqualification, or expiration of the term of office of any member or alternate member of the committee, such member or alternate member shall account for all receipts and disbursements and deliver to his successor. to the committee, or to a designee of the Secretary all property (including, but not limited to, all books and records) in his possession or under his control as member or alternate member, and he shall execute such assignments and other instruments as may be necessary or appropriate to vest in such successor, committee, or designee full title to such property and funds, and all claims vested in such member or alternate member. Upon the death of any member or alternate member of the committee, full title to such property funds, and claims vested in such member or alternate member shall be vested in his successor or, until such successor has been selected and has qualified, in the committee.

§ 964.32 Compensation and expenses. Members of the committee and alternate members when acting as members shall serve without compensation but shall be allowed their necessary expenses as approved by the committee.

§ 964.33 *Powers*. The committee shall have the following powers:

(a) To administer the terms and provisions of this subpart:

(b) To makes rules and regulations to effectuate the terms and provisions of this subpart;

(c) To receive, investigate and report to the Secretary complaints of violations of this subpart; and

(d) To recommend to the Secretary amendments to this subpart.

§ 964.34 Procedure—(a) Organization. The committee shall select a chairman from among its members and such other officers as may be appropriate from its membership or employees. Whenever an eleventh member has been nominated by the committee and appointed by the Secretary such eleventh member shall act as chairman of the committee.

(b) Quorum. Not less than seven members, including alternate members acting in the place and stead of members, shall constitute a quorum of the committee.

(c) Voting requirements. No action shall be taken by the committee including the nomination of an eleventh member unless a quorum is present and a concurring vote of not less than three producer members and three handler members, or alternate members acting in the place and stead of members, is obtained. Provided, however That any recommendation to establish volume regulation under § 964.55 of this subpart shall require the concurring vote of not less than four producer members and four handler members, or alternate members acting in the place and stead of members.

§ 964.35 Duties. The committee shall have, among others, the following duties:

- (a) To act as intermediary between the Secretary and any producer, or handler.
- (b) To keep minutes, books and other records which shall clearly reflect all of the acts and transactions of the committee and subcommittees and such minutes, books and other records shall be subject to examination by the Secretary at any time;
- (c) To make scientific and other studies and assemble data on the producing, handling, shipping, and marketing conditions relative to figs and dried figs which are necessary in connection with the performance of its official duties:

(d) To adopt such rules and regulations for the conduct of the business of the committee as it may deem advisable;

(e) To appoint or employ such persons as it may deem necessary and to determine the salaries and define the duties of such persons;

(f) To submit to the Secretary not later than July 17 of each year a budget of its anticipated expenditures and the recommended rate of assessment for the ensuing crop year and the supporting data therefor, except that such submission for the first crop year shall be made as soon as practicable after the effective time of this subpart.

(g) To submit to the Secretary such available information with respect to figs and dried figs as the committee may deem appropriate or as the Secretary may request;

- (h) To prepare and submit to the Secretary statements of the financial operations of the committee exclusive of surplus control operations at such times as the committee may deem appropriate or as the Secretary may request, and to make such statements together with the minutes of the meetings of said committee available for inspection at the offices of the committee by producers and handlers;
- (i) To prepare and submit to the Secretary annually as soon as practicable after the end of each crop year and such other times as the committee may deem appropriate or the Secretary may request a statement of the financial operations of the committee with respect to the surplus control for such crop year and to make such statement available at the offices of the committee for inspection by producers and handlers;
- (j) To cause the books of the committee to be audited by a certified public accountant at least once each crop year and at such other times as the committee may deem necessary or as the Secretary may request. Such report shall show among other things, the receipt and expenditure of funds. At least two copies of such audit report shall be submitted to the Secretary. A copy of each such report shall be available at the offices of the committee for inspection by producers and handlers.
- (k) To give the Secretary the same notice of meetings of the committee and subcommittees as is given to the members of the committee or subcommittees;
- (1) To give producers and handlers reasonable advance notice of meetings of the committee and to maintain all such meetings open to such persons;
- (m) To investigate compliance with the provisions of this subpart and with any rules and regulations established pursuant thereto and
- (n) To establish with the approval of the Secretary such rules and procedures relative to administration of this subpart as may be consistent with the provisions contained in this subpart and as may be necessary to accomplish the purposes of the act and the efficient administration of this subpart.

MARKETING POLICY

§ 964.40 Report of marketing policy. Prior to the beginning of each crop year, the committee shall prepare and submit to the Secretary a report setting forth its marketing policy for the regulation of the handling of dried figs in such crop year. Such report shall include the data and information used by the committee in the formulation of such marketing policy. In developing the marketing policy the committee shall give consideration to the following factors:

- (a) The estimated tonnage of dried figs by variety from preceding crop years held by handlers:
- (b) The estimated tonnage of dried figs by variety from preceding crop years held by producers;
- (c) The estimated production of dried figs by variety in such crop year.

- (d) An appraisal of the quality and size of dried figs by variety of the crop to be produced in such crop year.
- (e) The estimated tonnage of dried figs marketed in recent crop years segregated by countries as to foreign commerce and segregated by uses as to domestic commerce;
- (f) The current prices being received for dried figs by producers and handlers;(g) The trend and level of consumer
- income;
- (h) The estimated probable market requirements for dried figs in such crop year in domestic commerce segregated by uses and in foreign commerce, segregated by countries; and
- (i) Such other factors as may have a bearing on the marketing of dried figs.
- § 964.41 Policy meeting. The committee shall hold a meeting for the purpose of formulating and adopting the marketing policy for any crop year not later than July 12 preceding the beginning of such crop year, except that the meeting for the first crop year shall be held as soon as practicable after the effective time of this subpart.
- § 964.42 Time of submission. The marketing policy report for any crop year shall be submitted to the Secretary as promptly as possible after the policy meeting and in no event later than July 17 preceding the beginning of such crop year, except that the submission for the first crop year shall be as soon as practicable after the effective time of this subpart.
- § 964.43 Modification or change. In the event the committee subsequently determines that such marketing policy should be modified or changed by reason of change in economic or other conditions, it shall make such modification or change in the manner provided for above for the original formulation of a marketing policy, insofar as applicable, and shall submit promptly a report of such modified or changed marketing policy to the Secretary along with the data which it considered in connection with the making of such modification or change.
- § 964.44 Publicity. The committee shall promptly give reasonable publicity to producers and handlers of the contents of -each marketing policy report submitted to the Secretary and of each report modifying or changing a marketing policy. Such publicity may be given through newspapers having general circulation in the area or through other channels, but the committee may use any or all of such media. Copies of all such reports shall be maintained in the offices of the committee where they shall be available for examination by producers and handlers.

QUALITY CONTROL

- § 964.50 Receiving of natural condition dried figs by handlers—(a) General. In order to effectuate the declared policy of the act, no Fandler shall acquire natural condition dried figs except in accordance with the provisions of this section.
- (b) Initial regulation. As of the effective time of this subpart, and continu-

- ing until such regulation is superseded by other regulations prescribed by the Secretary no handler shall acquire natural condition dried figs unless they meet the minimum standards for natural condition dried figs as set forth in § 964.90 (Exhibit A)
- (c) Superseding regulation. In case the committee should recommend to the Secretary that the initial minimum standards as to quality as provided for in paragraph (b) of this section, should be superseded by other minimum standards as to quality, it shall submit its recommendations to the Secretary, together with the data and information upon which it acted in making such recommendation, and such other information as the Secretary may request. The Secretary shall issue such superseding regulation if he finds, upon the basis of the recommendation and supporting data submitted to him by the committee, or from other pertinent information available to him, that to do so would tend to effectuate the declared policy of the act. Any superseding regulations may be by variety shall provide a maximum tolerance for total defects, and may provide a maximum tolerance for single defects or classes of defects. Any superseding regulations issued by the Secretary shall subsequently be modified, suspended, or terminated, in case he finds that the pertinent facts and circumstances so warrant; and the committee, in submitting any recom-mendation therefor to the Secretary shall, in each instance, submit to him the information and data on the basis of which such recommendation is made. The committee shall give prompt publicity through newspapers having general circulation in the area and may give notice through other channels, if the committee deems it desirable, to handlers and producers of each recommendation submitted by it to the Secretary and of each superseding regulation issued by the Secretary Notice of each regulation issued shall include, but not be limited to, written notice by registered mail to all handlers of whom the committee has a record.
- (d) Inspection. (1) Each handler shall cause an inspection to be made of each lot of natural condition dried figs tendered to him. Prior to acquiring such dried figs, each handler shall obtain a certificate that the dried figs meet the minimum standards for passable dried figs as established pursuant to the provisions of paragraph (b) or (c) of this section, and said handler shall submit or cause to be submitted to the committee such certificate, together with such other instruments and records as the committee may require. Such certificates shall be issued by inspectors of the Dried Fruit Association of California, or such other inspection agency as may be recommended by the committee and designated by the Secretary. Each lot of dried figs so certificated as meeting the applicable requirements shall be known and referred to as passable dried figs. The cost of inspection and certification of such passable dried figs shall be borne by the handler.
- (2) For purposes of inspection, natural condition dried figs shall be sam-

pled on a handler's premises in accordance with the rules and procedures established pursuant to the provisions of this subpart. Each lot of natural condition dried figs tendered to a handler shall be under the jurisdiction of the committee from the time of delivery thereof until inspection results are available. No handler may acquire natural condition dried figs failing to meet the minimum standards of quality and no handler may return or transfer to any producer any natural condition dried figs that have been certificated as meeting minimum standards of quality.

§ 964.51 Regulation of the handling of dried figs subsequent to their acquisition by handlers—(a) General. In order to effectuate the declared policy of the act, no handler shall ship or otherwise make final disposition of natural condition dried figs or of processed dried figs, except in accordance with the terms and

conditions of this section.

(b) Initial regulation. As of the effective time of this subpart, and continuing until such regulation is superseded by other regulations prescribed by the Secretary, except as otherwise specifically provided, no handler shall ship or otherwise make final disposition of dried figs which fail to meet the applicable minimum standards set forth in § 964.90 (Exhibit A)

(c) Superseding regulation. In case the committee should recommend to the Secretary that the initial minimum standards as to quality as provided for in paragraph (b) of this section should be superseded by other minimum standards as to quality, it shall submit its recommendation to the Secretary, together with the data and information upon which it acted in making such recommendation, and such other information as the Secretary may request. The Secretary shall issue such superseding regulation if he finds, upon the basis of the recommendation and supporting data submitted to him by the committee, or from other pertinent information available to him, that to do so would tend to effectuate the declared policy of the act. Any superseding regulations may be by variety shall not be below the applicable minimum standards for dried figs, as set forth in § 964.90 (c) of Exhibit A, and any such minimum standards for quality shall provide a maximum tolerance for total defects, and may provide a maximum tolerance for single defects or classes of defects. Any superseding regulations issued by the Secretary shall subsequently be modified, suspended, or terminated in case he finds that the pertinent facts and circumstances so warrant; and the committee, in submitting any recommendation therefor to the Secretary shall, in each instance, submit to him the information and data on the basis of which such recommendation is made. The committee shall give prompt publicity through newspapers having general circulation in the area and may give notice through other channels, if the committee deems it desirable, to handlers and producers of each recommendation submitted by it to the Secretary and of each superseding regulation issued by the Secretary. Notice of each

regulation issued shall include, but not be limited to, written notice by registered mail to all handlers of whom the committee has a record.

(d) Inspection: Each handler shall at his own expense, before shipping or otherwise making final disposition of dried figs, unless such figs are specifically excepted in this section, cause an inspection to be made of such dried figs to determine whether they meet the then applicable quality standards for dried figs. No handler shall ship or otherwise make final dispositon of such figs for any use, unless they are specifically excepted in this section, if they do not meet such minmum standards. Each handler shall obtain a certificate that such dried figs meet the aforementioned minimum standards and shall submit or cause to be submitted to the committee such certificate, together with such other instruments and records as the committee may require. Such certificates shall be issued by inspectors of the Dried Fruit Association of California, or such other inspection agency as may be recommended by the committee and designated by the Secretary.

(e) Exceptions to restrictions—(1) Interplant and inter-handler transfers. Notwithstanding the restrictions contained in paragraphs (b) or (c) of this section, any handler may transfer dried figs from one plant owned by him to another plant owned by him within the State of California without having an inspection made as provided for in paragraph (d) of this section, and any handler may skip dried figs from his plant to another handler's plant within the State of California without having an inspection made as provided for in paragraph (d) of this section. A report of such inter-handler transfer shall be made promptly to the committee by the transferring handler. The receiving handler shall, before shipping or otherwise making final disposition of such dried figs, comply with the requirements of this section.

(2) Defective dried figs. Any defective dried figs which may be accumulated by a handler by removing them from his passable dried figs, and any dried figs acquired by a handler which fail to meet the quality standards for shipment or final disposition as dried figs, may be disposed of or marketed for disposition as animal feed, or as other dried fig products in which they are used in channels other than for human consumption. The committee shall issue any such rules and procedures as may be necessary to insure such uses.

(3) Export shipments. Dried figs however processed being prepare for export, except to Canada, outside of the continental limits of the United States and its possessions and territories are exempt from the quality inspection and certification requirements of this section. Handlers preparing dried figs or dried fig products for such exempted export markets shall observe rules and procedures established pursuant to the provisions of this subpart.

§ 964.52 Above parity situations. The provisions hereof relating to minimum standards of quality and inspection requirements, within the meaning of section 2 (3) of the act, and any other provisions pertaining to the administration and enforcement thereof, shall continue in effect irrespective of whether the season average price to producers for dried figs is in excess of the parity level specified in section 2 (1) of the act.

VOLUME REGULATION

§ 964.55 Recommendations for designation of percentages—(a) Committee determinations. If the committee concludes that the supply of and demand for any variety or varieties of dried figs make it advisable to designate the percentages of such dried figs acquired by, handlers in any crop year which shall be salable and which shall be surplus, it shall recommend such percentages to the Secretary. With any recommendation respecting percentages, the committee shall also submit the information on the basis of which such recommendation was made. In the event the committee subsequently deems it desirable to modify, suspend, or terminate any such percentages, it shall submit to the Secretary its recommendation in that regard together with the information on the basis of which such modification, suspension, or termination is recommended.

(b) Pertinent considerations. In determining any recommendation referred to in paragraph (a) of this section, the committee shall consider and analyze the following pertinent estimated factors:

(1) The supply of dried figs, comprising any carryovers of dried figs from preceding crop years held by producers and handlers and the tonnage of dried figs to be produced in the crop year under consideration:

- (2) The trade demand during the crop year for dried figs in normal market channels, both domestic and foreign;
- (3) The current prices being received for dried figs by producers and handlers; (4) The trend and level of consumer income:
- (5) Present and prospective price trends for dried figs;
- (6) Other pertinent economic and marketing factors relative to dried figs: and
- (7) If the committee recommends volume regulation by variety the information insofar as possible shall be furnished by variety
- (c) Notice. The committee shall give reasonable advance notice to producers and handlers of each meeting to consider the recommendation of the percentages to be fixed pursuant to paragraph (a) of this section, or any recommendation to modify suspend, or terminate such percentages, and each such meeting shall be open to them. Such notice shall be given through publicity in newspapers having general circulation in the area, and may be given through other channels, if the committee deems it desirable. The committee also shall give similar notice to producers and handlers of all such recommendations submitted to the Secretary.
- (d) Filing of recommendation with the Secretary. The original recommen-

dation by the committee as to percentages with respect to any crop year shall be filed with the Secretary at the same time it submits its marketing policy report.

§ 964.56 Regulation by the Secretary-(a) Designation of percentages. Whenever the Secretary finds from the recommendation and supporting information supplied by the committee, or from any other available information, that to designate by variety or otherwise the percentages of natural condition dried figs acquired by handlers during any crop year which shall be salable tonnage, and surplus tonnage, respectively, would tend to effectuate the declared policy of the act, he shall so designate the percentages of such dried figs acquired by handlers during such crop year which shall be salable tonnage, and surplus tonnage, respectively. In the event the Secretary subsequently finds from the recommendations and supporting information supplied by the committee, or from any other available information, that modification, suspension, or termination of any such regulation will tend to effectuate the declared policy of the act, he shall so modify, suspend, or terminate such regulation.

(b) Notice. The Secretary shall notify the committee promptly of each such percentage so fixed. The committee, in turn, shall give prompt notice thereof to producers and handlers, including, but not necessarily limited to. written notice by registered mail to each handler of whom the committee has a

§ 964.57 Surplus tonnage of dried flas generally-(a) General requirement. Surplus tonnage acquired by each handler shall be held by him for the account of the committee, and subject to the applicable restrictions of this subpart.

(b) Holding and delivery. Each handler shall hold in storage all surplus tonnage acquired by him until he has been relieved of such responsibility by the committee, either by delivery to the committee, or otherwise. Such handler shall store such surplus tonnage in such a manner as will maintain the dried figs in the same condition as when he acquired them, except for normal and natural deterioration and shrinkage, standards for which may be recommended by the committee and established by the Secretary. and except for loss through fire, acts of God, force majeure, or other conditions beyond the handler's control. The committee may after giving reasonable notice, require a handler to deliver to it, or any one designated by it, at such handler's warehouse or at such other place as the dried figs may be stored, part, or all of the surplus dried figs held by him. The committee may require that such delivery consist of natural condition dried figs, or it may arrange for such delivery to consist of processed dried figs.

(c) Surplus obligation and deferment thereof. Each handler shall have in his possession, or under his control, at all times, a quantity of dried figs, by variety, equal to the quantity of surplus tonnage referable to his acquisitions of dried figs less any quantity of such surplus tonnage delivered by him pursuant to instructions of the committee and any quantity of such tonnage acquired by him but subsequently sold to him by the committee: Provided, That the committee may defer, upon the written request of any handler and for good and sufficient cause, the meeting by such handler of such requirement for a specified period ending not later than December 15 of the particular crop year. As a condition to the granting of any such deferment, the committee shall require the handler to obtain and file with it a written undertaking that by the end of the deferment period he will have fully satisfied his obligations with respect to the holding or control by him of the surplus tonnage applicable to his acquisitions of dried figs. Such under-taking shall be secured by a bond or bonds to be filed with and acceptable to the committee, running in favor of the committee and the Secretary and for an amount computed on the basis of the then current market value of natural condition dried figs, as determined by the committee, for the quantity for which the deferment is granted. The cost of such bond shall be borne by the handler filing same. Any sums collected through default of a handler on his bond shall, after reimbursement of the committee for any expense incurred by it in effecting collection, be deposited with the funds obtained by it from the disposition of the surplus pool and disbursed by it to producers as set forth in § 964.58 (j) In addition to the foregoing, the committee may establish other reasonable and necessary terms and conditions upon which such deferments may be granted.

(d) Quality requirements. tonnage delivered by any handler to the committee, or to any person designated by it, whether in the form of natural condition dried figs or processed dried figs shall meet the minimum standards provided in §§ 964.50 or 964.51 unless otherwise specified by the committee. Different minimum standard requirements may be established by the committee for individual varieties delivered to the committee from the surplus tonnage.

(e) Payment for services. Handlers shall be compensated for receiving, storing, and handling surplus tonnage held by them for the account of the committee, in accordance with a schedule of payments established by the committee and approved by the Secretary.

(f) Loans. The committee may hypothecate binding written contracts for the sale of surplus dried figs, for the purpose of obtaining funds for the distribution of net proceeds from the disposition of surplus tonnage dried figs in accordance with the provisions of paragraph (j) of § 964.58: Provided, That there are included in, and made a part of, the loan agreement in connection with each such loan the following terms and conditions: (1) The recourse of the lender shall be confined to the particular sales contract, or the proceeds which are derived therefrom; (2) neither the Secretary, the committee, any of the committee's members, alternate members, officers, employees, and agents, nor any distributees as such (including their respective officers and employees) of the loan proceeds. shall be liable for the repayment, either in whole or in part, of the particular loan; and (3) the lender waives any right which he might otherwise have, in case of default in payment, to obtain either possession or control of the surplus dried figs involved. The proceeds of any such loan, after deducting a reasonable amount to help defray the surplus pool operation expenses, shall be distributed by the committee to the respective producers, or their successors in interest, on the basis of the volumes of their respective contributions to the pooled dried figs of each variety on which the loan is obtained.

§ 964.58 Disposition of surplus tonnage-(a) Handler's pro rata shares. In the event the committee offers surplus tonnage dried figs to handlers for purchase, or for contract processing or packing, each handler shall, insofar as practicable, be given the first opportunity to purchase or process or pack his share of the offer, which share shall be determined as the same proportion that the respective surplus tonnage received by him is of the surplus tonnage received by all handlers: Provided, That any surplus tonnage for which a deferment has been granted to a handler pursuant to the provisions of and as authorized in § 964.57 (c) shall be included in his receipts of surplus tonnage in determining his share: And provided further That any inequities resulting from this method may be corrected by the committee. In the event that any handler declines or fails to purchase or contract for processing or packing any or all of his share of any such offer, the remaining portion thereof shall be reoffered by the committee to all handlers who purchased or contracted for processing or packing all of their respective shares of such offer, in proportion to their respective shares. Any quantity of surplus tonnage remaining unsold or not contracted for processing or packing after a reoffer shall be withdrawn from the particular offer, but may be sold or contracted to any handler or handlers notifying the committee of his or their desire to purchase or contract same.

(b) Sales to the United States Government and foreign governments. The committee is authorized to sell direct, or to sell to handlers for resale, surplus tonnage to the United States Government or to any agency thereof (including, but not limited to, sales for domestic or foreign relief purposes, school lunch and institutional feeding, or for foreign economic assistance) or to any foreign government.

(c) Sales for animal feed, certain manufacturing uses and export. The committee may sell direct, or sell to handlers for resale, any surplus dried figs for animal feed, botanicals, distillation, or for any manufacturing uses or for export which were not provided for in estimating the salable quantity of dried figs for the then current crop year. The committee is hereby authorized to exercise such supervision as may be reasonably necessary to insure that such figs are disposed of for the respective uses for which they are sold.

- (d) Sales to handlers under specified supply conditions—(1) Authorization. If the committee finds that total contracted sales by all handlers during the crop year exceeds 80 percent of the total salable tonnage received by all handlers plus 80 percent of the estimated tonnage held unsold by producers which would become salable tonnage; or, if the committee finds that more than 20 percent of the uncontracted salable tonnage is being held so tightly by relatively few handlers or producers, as seriously to restrict commerce in dried figs, and if 75 percent of all handlers have made a written request therefor and such requesting handlers have purchased over 65 percent of the salable tonnage purchased from producers, the committee shall, in either event, offer to sell to handlers surplus dried figs from the surplus tonnage for use as salable tonnage.
- (2) Commencement date. No such offer shall be made prior to December 15 of the crop year.
- (3) Quantity limitations. No single sales offer of surplus tonnage to handlers shall be so excessive as to quantity that it obviously would disrupt orderly marketing conditions for the salable tonnage.
- (4) Handlers' pro rata shares. In any offer by the committee to sell surplus tonnage to handlers pursuant to this paragraph the method for such sales shall be the same as that prescribed in paragraph (a) of this section.
- (5) Withdrawal of offer Any offer to sell surplus tonnage to handlers outstanding as of July 5 of any crop year shall be withdrawn and the committee shall not make any further offer to sell surplus tonnage to handlers after that date except that if the committee determines, with the approval of the Secretary, that a major change in conditions has occurred, such as the involvement of the United States in war or a serious crop shortage or a crop failure in the following year, or any other significant development which indicates a shortage of supply the said July 5 limitation shall no longer apply.
- (e) . Notice to Secretary of proposed sales of surplus. The committee shall file with the Secretary by telegram or air mail letter, prior to making any offer to sell surplus dried figs pursuant to this section, complete information with respect thereto, including the bases therefor. The Secretary shall have the right to disapprove, within seven days after he receives such information, the making of such an offer or any term or condition, thereof.
- (f) Prices. No sale of surplus dried figs shall be made by the committee at a price below that which reflects the weighted average price received by producers for salable tonnage of the particular variety during the then current crop year to a date as near as practicable to the date of the offer, as shown by the reports to be filed under the provisions of § 964.62, plus accrued charges for receiving, handling and storing surplus tonnage: Provided, That the committee may sell surplus dried figs at negotiated prices for the purposes and under the

(c) and (h) of § 964.58 of this subpart.

(g) Donations of surplus dried figs. The committee may donate quantities of surplus dried figs for use in research or promotional activities.

- (h) Unsold surplus tonnage. committee shall endeavor to sell all dried figs in the surplus tonnage at a rate so as to achieve as nearly as may be practicable, the complete disposition of the surplus tonnage not later than July 31 of the crop year. Any surplus tonnage unsold as of July 31 shall be disposed of as soon as practicable for animal feed. distillation, or in any other outlets which are not competitive with the sale of dried figs in normal marketing channels, unless determination with respect to a shortage of supply has been made as provided for in paragraph (d) (5) of this section. The committee may dispose of unsold surplus dried figs after July 31 at negotiated prices.
- (i) Charges against sales proceeds of surplus tonnage. Expenses incurred by the committee in receiving, handling, holding, or disposing of surplus tonnage shall be charged against the proceeds of sales of surplus tonnage.
- (j) Distribution of net proceeds. Net proceeds from the disposition of surplus tonnage shall be distributed by the committee either directly, or through handlers as agents of the committee, under safeguards to be established by the committee, to the respective producers or to their successors in interest on the basis of their respective contributions to the surplus tonnage with appropriate quality or varietal differentials as may be established by the committee. Progress payments may be made by the committee in the same manner, as sufficient funds accumulate. Prior to making any such distribution, the committee shall submit to the Secretary a report including all pertinent details with respect thereto. The Secretary shall have the right to disapprove, within seven calendar days after he receives such information the making of such a disbursement or any term or condition thereof.

REPORTS AND RECORDS

§ 964.60 Report of carryover Each handler shall, upon request of the committee, file promptly with the committee a certified report, by varieties, of all natural condition dried figs and processed dried figs, separately, which were held by him on January 31 and July 31 of any crop year, which report shall show the quantity of each variety, and the locations thereof.

§ 964.61 Acquisition reports. In the event a surplus percentage is established for any crop year, each handler shall file with the committee, on request, a certified report showing, with respect to his acquisitions of each variety of dried figs during the period covered by such report: (a) The surplus tonnages referable to his acquisitions; and (b) the locations of those surplus tonnages. Each such report shall be filed in such manner and at such times as the committee may designate. Upon request of the committee, each handler shall furnish to the committee, in such manner and at such

conditions specified in paragraphs (b), times as it may prescribe, the name and address of each person from whom he acquired dried figs and the quantity of each variety of dried figs acquired from each such person.

> § 964.62 Reports of prices. Each handler shall file with the committee such price reports as may be requested by the committee, showing the weighted average price paid by such handlers to producers for each variety of dried figs and the quantity purchased at each such price to enable the committee to determine the weighted average price received by producers for the purposes set forth ın § 964.58 (f)

> § 964.63 Other reports. Upon the request of the committee each handler shall furnish such other reports and information as are needed to enable the committee to perform its functions under this subpart.

> § 964.64 Confidential information. All reports and records furnished or submitted by a handler to the committee shall be received by and at all times kept under the custody or control of one or more employees of the committee, who shall disclose to no person, except the Secretary upon request therefor, data or information obtained or extracted therefrom which would constitute a trade secret or the disclosure of which might affect the trade position, financial condition, or business operations of the particular handler from whom received: Provided. That the committee may require such an employee to disclose to it, or to any person designated by it or by the Secretary, information and data of a general nature, compilations of data affecting handlers as a group and any data affecting one or more handlers, so long as the identities of the individual handlers involved are not disclosed.

> § 964.65 Records. Each handler shall maintain such records of all dried figs handled by him as prescribed by the committee. Such records shall include, but not necessarily be limited to, the quantity of dried figs of each variety acquired from each person and the name and address of each such person, total acquisitions, total sales, and total other disposition of each variety which he handles.

> § 964.66 Verification of reports. For the purpose of checking and verifying reports filed by handlers, the committee, through its duly authorized representatives, shall have access to any handler's premises and shall be permitted to inspect such premises and any dried figs held by such handler, and any and all records of the handler with Tespect to the acquisition, holding or disposition of dried figs by him. Each handler shall furnish all labor and equipment necessary to make such examinations at no expense to the committee. Each handler shall store dried figs in a manner which will facilitate examination and shall maintain storage records which will permit accurate identification of dried figs held by him or disposed of theretofore. Insofar as is practicable and consistent with the carrying out of the provisions of this subpart, all data

and information obtained or received through checking and verification of reports shall be treated as confidential information.

EXPENSES AND ASSESSMENTS

§ 964.70 Expenses. The committee is authorized to incur such expenses (exclusive of expenses for the receiving, handling, holding or disposing of any quantity of surplus tonnage) as the Secretary finds are reasonable and likely to be incurred by it during each crop year for the maintenance and functioning of the committee and for such other purposes as the Secretary may pursuant to the provisions of this subpart, determine to be appropriate. The recommendation of the committee as to these expenses and the recommended rate of assessment for each such crop year together with all data supporting such recommendations, shall be filed with the Secretary not later than July 17 preceding the crop year in connection with which such recommendations are made, except that such submission for the first crop year shall be made as soon as practicable after the effective time of this subpart.

§ 964.71 Assessments—(a) Requirement for payment and rate of assessment. The funds to cover the expenses of the committee (exclusive of expenses for the receiving, handling, holding, or disposing of any quantity of surplus tonnage) shall be obtained by levying assessments. Each handler shall pay to the committee, upon demand, with respect to all salable tonnage dried figs handled by him as the first handler thereof and on all dried figs sold to him from surplus tonnage for resale, his prorata share of such expenses which the Secretary finds will be incurred as aforesaid, by the committee during each crop year. Each handler's pro rata share of such expenses shall be equal to the ratio between the total salable tonnage of dried figs handled by him as the first handler thereof plus the tonnage sold to him from surplus tonnage for resale during the applicable crop year, and the total salable tonnage dried figs handled by all handlers as the first handlers thereof plus the tonnage sold to such handlers from surplus tonnage for resale, during the same crop year. The Secretary shall fix the rate of assessment to be paid by such handlers on the basis of a specified rate per ton. At any time during or after a crop year the Secretary may increase the rate of assessment to apply to all salable tonnage dried figs handled by handlers as the first handlers thereof and on all tonnage sold to handlers from surplus tonnage for resale during such crop year to obtain sufficient funds to cover the expenses of the committee. Each handler shall pay such additional assessment to the committee upon demand. The Secretary shall reduce the assessment rate applicable to all such tonnage of the particular crop year if he finds that when thus reduced it will provide funds sufficient to enable the committee properly to perform its functions under this subpart. The payment of assessments for the maintenance and functioning of the committee may be required under this part throughout the period it is in effect, irrespective of whether particular provisions thereof are suspended or become inoperative.

(b) Advance payments. In order to provide funds to carry out the functions of the committee, the committee may accept advance payments from any handler to be credited toward such assessments as may be levied pursuant to this section against the respective handler.

(c) Use and refund of excess funds from assessments. Any money collected as assessments during any crop year and not expended in connection with the respective crop year's operations hereunder may be used and shall be refunded by the committee in accordance with the provisions hereof. Such excess funds may be used by the committee during the period of five months subsequent to such crop year in paying the expenses of the committee incurred in connection with the new crop year. The committee shall, however, from funds on hand, including assessments collected during the new crop year, distribute or otherwise make available, within six months after the beginning of the new crop year, the aforesaid excess, as verified by audit, to each handler from whom an assessment was collected, as aforesaid, in the proportion that the amount of the assessment paid by the respective handler bears to the total amount of the assessments paid by all handlers during said previous crop year. Any money collected from assessments hereunder and remaining unexpended in the possession of the committee upon the termination hereof shall be distributed in such manner as the Secretary may direct.

(d) Suits for collection. The committee may with the approval of the Secretary maintain in its own name, or in the name of its members, a suit against any handler for the collection of such handler's assessment.

§ 964.72 Funds. All funds received by the committee pursuant to the provisions of this subpart shall be used solely for the purposes authorized in this subpart and shall be accounted for in the manner provided for in this subpart. The Secretary may at any time, require the committee or its members and alternate members to account for all receipts and disbursements.

MISCELLANEOUS PROVISIONS

§ 964.80 Personal liability. No member or alternate member of the committee, or any employee, representative, or agent thereof shall be held personally responsible, either individually or jointly with others, in any way whatsoever, to any person, for errors in judgment, mistakes or other acts, either of commission or omission, as such member, alternate member, employee, representative, or agent, except for acts of dishonesty.

§ 964.81 Separability. If any provision of this subpart is declared invalid, or the applicability thereof to any person, circumstance, or thing is held invalid, the validity of the remainder of this subpart or the applicability thereof to any other person, circumstance or thing shall not be affected thereby.

§ 964.82 Derogation. Nothing contained in this subpart is, or shall be construed to be, in derogation or modification of the rights of the Secretary or of the United States to exercise any powers granted by the act or otherwise, or, in accordance with such powers, to act in the premises whenever such action is deemed advisable.

§ 964.83 Duration of immunities. The benefits, privileges, and immunities conferred upon any person by virtue of this subpart shall cease upon the termination of this subpart, except with respect to acts done under and during the existence of this subpart.

§ 964.84 Agents—(a) Authorization by Secretary. The Secretary may by a designation in writing, name any person, including any officer or employee of the United States Government, or name any bureau or division in the United States Department of Agriculture, to act as his agent or representative in connection with any of the provisions of this subpart.

(b) Authorization by committee. The committee may authorize any person or persons or agency to act as its agent or representative in connection with the provisions of this subpart.

§ 964.85 Effective time. The provisions of this subpart, as well as any amendments to this subpart, shall become effective at such time as the Secretary may declare, and shall continue in force until terminated, or during suspension, in one of the ways specified in § 964.86.

§ 964.86 Termination or suspension—
(a) Failure to effectuate policy of act. The Secretary may at any time, terminate the provisions of this subpart, by giving at least one day's notice by means of a press release or in any other manner which he may determine. The Secretary shall terminate or suspend the operation of any or all of the provisions of this subpart, whenever he finds that such provisions do not tend to effectuate the declared policy of the act.

(b) Referendum. The Secretary shall terminate the provisions hereof at the end of any crop year whenever he finds that such termination is favored by a majority of the producers of dried figs who during that crop year have been engaged in the production for market of dried figs in the State of California. Provided, That such majority have during such period produced for market more than 50 percent of the volume of such dried figs produced for market within said State: but such termination shall be effected only if announced on or before July 15 of the then current crop year. The Secretary may at any time he deems desirable, hold a referendum of producers to determine whether they favor termination of this subpart. However, beginning with 1955, if the Secretary receives a recommendation, adopted by at least a majority vote of the producer members of the committee, requesting the holding of such a referendum, the Secretary shall hold such a referendum: Provided, That the Secretary shall not be required to hold

such a referendum upon the basis of such a request more than once every two years.

(c) Termination of act. The provisions of this subpart shall terminate, in any event, upon the termination of the act.

§ 964.87 Procedure upon termination. Upon the termination of this subpart, the members of the committee then functioning shall continue as joint trustees, for the purpose of liquidating the affairs of the committee. Action by such trustees shall require the concurrence of a majority of the said trustees. Such trustees shall continue in such capacity until discharged by the Secretary and shall, from time to time, account for all receipts and disbursements, and deliver all property on hand, together with all books and records of the committee and the joint trustees, to such person as the Secretary may direct; and shall, upon the request of the Secretary execute such assignments or other instruments necessary or appropriate to vest in such person full title and right to all - the funds, properties, and claims vested in the committee or the joint trustees pursuant to this subpart. Any person to whom funds, property or claims have been transferred or delivered by the committee or the joint trustees, pursuant to this section, shall be subject to the same obligations imposed upon the members of the said Committee and upon said joint trustees.

§ 964.88 Effect of termination or amendment. Unless otherwise expressly provided by the Secretary, the termination of this subpart or of any regulation issued pursuant to this subpart, or the issuance of any amendment to either thereof, shall not (a) affect or waive any right, duty, obligation, or liability which shall have arisen or which may thereafter arise in connection with any provision of this subpart or any regulation issued under this subpart, or (b) release or extinguish any violation of this subpart or any regulation issued under this subpart, or (c) affect or impair any rights or remedies of the Secretary, or of any other person, with respect to such violation.

§ 964.89 Amendments. Amendments to this subpart may be proposed from time to time, by any person or by the committee, and may be made a part of this subpart by the procedures provided under the act.

§ 964.90 Exhibit A—Minimum standards for dried figs—(a) Defective dried figs are the individual specimens of dried figs or separate pieces of sliced dried figs which are classified as "insect infested" moldy" "sour" "filthy" or "worthless" as set forth under the heading of "Fig Classes" in the bulletin entitled "Fig Testing" dated July 1, 1929 by Burton J. Howard, Food and Drug Administration, United States Department of Agriculture. Such classifications are as follows:

(1) Insect infested. Dried figs are regarded as insect infested: (i) If worms or insects or their pupae, dead or alive, are present in the interior of the dried

fig, or (ii) if the excreta are distributed in the interior of the dried fig.

(2) Moldy. Dried figs are regarded as moldy if the fig shows a moldy or smutty condition in an area equaling or exceeding $\frac{3}{16}$ inch (0.5 cm.)

(3) Sour Dried figs are regarded as sour (i) If fermented as evidenced by distinct sour taste or odor, or the darkening in color characteristic of fermentation or souring, or (ii) if infested with internal rot (endosepsis)

(4) Filthy. Dried figs are regarded as filthy if contaminated with dirt or extraneous matter: (i) Containing extraneous matter or filth pressed into the fig, (ii) containing sand or earthy material, or (iii) showing other evidences of insanitary production or handling.

(5) Worthless. Dried figs are regarded as worthless if so immature, woody or fibrous as to be practically valueless as a food.

(b) Maximum tolerances for acquisition of natural condition dried figs. Tolerance allowances for natural condition dried figs shall not exceed the following:

(1) Total defects not to exceed 33 percent, including

(2) Maximum tolerance of 13 percent insect infested figs.

(c) Maximum tolerances for dried figs for shipment or other final disposition. Tolerance allowances for such dried figs shall not be in excess of the following:

(1) For dried figs being prepared in the form of package, carton, or bulk (including dried figs for conversion into juice or concentrate) total defective dried figs shall not exceed 10 percent.

(2) For dried figs being prepared as fig paste, or sliced dried figs being prepared as sliced dried figs for manufacture into fig paste: (i) Total defective figs shall not exceed 10 percent including not more than 5 percent of insect infested dried figs, and (ii) No sliced dried figs or fig paste shall contain more than 13 insect heads per 100 grams. Head count tests shall be required only in the cases of such varieties or blends thereof as are set forth in rules and procedures established pursuant to the provisions of this subpart.

Order Directing That a Referendum Be Conducted, Designating Agents to Conduct Such Referendum, and Determining the Representative Period

Pursuant to the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.) it is hereby directed that a referendum be conducted among the producers who during the period August 1, 1953 through July 31, 1954 (which is hereby determined to be a representative period for the purpose of such referendum) were engaged, in the State of California, in the production, for market, of dried figs to determine whether such producers approve or favor the issuance of an order regulating the handling of dried figs produced in California, which order is annexed to the decision of the Secretary of Agriculture filed simultaneously herewith.

W Allmendinger, A. J. Tarlock, M. C. Young, and Hugh Ross, of the Fruit and Vegetable Division, Agricultural Market-

ing Service, U. S. Department of Agriculture, are hereby designated agents of the Secretary of Agriculture to conduct said referendum severally or jointly.

The procedure applicable to this referendum shall be the "Procedure for the Conduct of Referenda Among Producers in Connection with Marketing Orders (Except Those Applicable to Milk and its Products) to Become Effective Pursuant to the Agricultural Marketing Agreement Act of 1937, as Amended" (15 F R. 5176; 19 F R. 35) except that the definition of "producer" in paragraph a (1) is hereby amended by adding, at the end thereof, the following sentence: "This definition shall apply only to producers of the figs who dry the same, either personally or through others on a fee basis, and to dry yard operators and other dehydrators who dry figs which they own own."

Copies of the aforesaid annexed order, of the aforesaid referendum procedure, and of this order may be examined in the Office of the Hearing Clerk, United States Department of Agriculture, Room 1371, South Building, Washington 25, D. C.

Ballots and other necessary forms and instructions for use in the referendum, also copies of the marketing order may be obtained from the San Francisco Marketing Field Office, Fruit and Vegetable Division, Agricultural Marketing Service, U. S. Department of Agriculture; Rm. 226—Old Mint Building, 5th & Mission Streets, San Francisco 3, California, O. C. Fuqua, Fresno Marketing Field Office, AMS, USDA, 3529 East Tulare Street, Fresno 2, California, and Harry J. Krade, Marketing Field Office, AMS, USDA, 701 K Street, 300–302 Old P O. Building, Sacramento 14, California.

Dated: January 5, 1955.

[SEAL]

EARL L. BUTZ, Assistant Secretary.

[F R. Doc. 55-164; Filed, Jan. 7, 1955; 8:52 a. m.]

[7 CFR Part 10028]

[Docket No. AO-268]

HANDLING OF MILK IN WHEELING, W VA.-STEUBENVILLE AND EAST LIVERPOOL, OHIO, MARKETING AREA

NOTICE OF HEARING ON PROPOSED MARKET-ING AGREEMENT AND YORDER

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S. C. 601 et seq.) and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900) notice is hereby given of a public hearing to be held at the Windsor Hotel, Wheeling, West Virginia, beginning at 10:00 a.m., e. s. t., on February 8, 1955.

Subjects and issues involved in the hearing. The hearing is for the purpose of receiving evidence as to the economic and marketing conditions relating to the handling of milk for the Wheeling, West Virginia-Steubenville and East Liverpool, Ohio, marketing area and to the issuance of a marketing

agreement and order to regulate the handling of milk in such marketing area.

The hearing on the proposed marketing agreement and order proposals is to determine whether (1) the handling of milk in the area proposed to be regulated is in the current of interstate or foreign commerce, or directly burdens, obstructs, or affects interstate or foreign commerce, (2) the issuance of a marketing agreement or order regulating the handling of milk in the area is justified. and (3) the provisions specified in the proposals or some other provisions, appropriate to the terms of the Agricultural Marketing Agreement Act, will best tend to effectuate the declared policy of the Agricultural Marketing Agreement Act of 1937, as amended.

Proposal No. 1. The following marketing agreement and order has been proposed by Dairymen's Co-operative Sales Association:

DEFINITIONS

SECTION 1. Act. "Act" means Public Act No. 10, 73d Congress, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.)

Sec. 2. Secretary. "Secretary" means the Secretary of Agriculture or any officer or employee of the United States authorized to exercise the powers and to perform the duties, pursuant to the act, of the Secretary of Agriculture.

SEC. 3. Department of Agriculture. "Department of Agriculture" means the United States Department of Agriculture or any other Federal agency as may be authorized by act of Congress or by Executive order to perform the price reporting functions of the United States Department of Agriculture.

SEC. 4. Person. "Person" means any individual, partnership, corporation, cooperative association, or any other business unit.

SEC. 5. Wheeling Marketing Area. "Wheeling, West Virginia, Marketing Area" hereinafter called the Marketing Area, means the territory described as follows:

With the junction of the southwestern corner of the State of Pennsylvania and the southeastern corner of Marshall County, West Virginia as a starting point, the marketing area shall include the following designated townships and all the townships included inside the perimeter formed by these designated townships and shall include all boroughs, municipalities, governmental institutions and military installations lying within such townships: Liberty, Cameron, Webster, and Sand Hill in Marshall County West Virginia, Triadelphia and Liberty in Ohio County West Virginia, Buffalo and Cross Creek in Brooke County West Virginia, Butler, Clay and Grant in Hancock County West Virginia, the City of East Liverpool, St. Clair, Madison, Wayne, Franklin and Washington in Columbiana County, Ohio Brush Creek and Springfield in Jefferson County, Ohio; German, Green, Cadiz and Athens in Harrison County, Ohio the Eastern half of Flushing, Union, Goshen, Wayne,

Washington and York in Belmont County, Ohio; Franklin and Meade in Marshall County, West Virginia (this joins up at Liberty Township in Marshall County, West Virginia, which is the starting point of the marketing area)

SEC. 6. Delivery period. "Delivery period" means a calendar month, or the portion thereof during which this subpart or any amendment thereto is in effect.

SEC. 7. Producer "Producer" means any person who produces milk approved by a health authority duly authorized to administer regulations governing the quality of milk disposed of in the marketing area, which milk is delivered from the farm to a pool plant or diverted during the months of April through August from a pool plant to a non-pool plant for the account of a handler. Milk so diverted shall be deemed to have been received at the pool plant from which diverted if diverted for the account of the operator of such plant. Milk so diverted by a cooperative shall be deemed to have been received by the ocoperative. This definition shall not include a person who produces milk which is received at the plant of a handler partially exempt from the provisions of this subpart pursuant to section 61 with respect to milk received by such handler.

SEC. 8. City plant. "City plant" means a plant where milk is processed and packaged and from which milk, skim milk or cream is disposed of as Class I milk in the marketing area to wholesale or retail outlets (including sales through vendors or plant stores) other than exclusive sales to city or country plants.

SEC. 9. Country plant. "Country plant" means a plant, except a city plant, at which milk is received from dairy farmers producing milk under a dairy farm permit issued by a health authority duly authorized to administer regulations governing the quality of milk disposed of in the marketing area, and which plant is approved by such health authority to furnish milk to a city plant.

SEC. 10. Pool plant. "Pool plant" means:

(a) A city plant which disposes during each of the delivery periods of April, May and June of not less than 45 percent, and in all other months not less than 55 percent, of its receipts of producer milk and approved milk from plants qualified pursuant to paragraphs (b) or (c) of this section as Class I milk on routes to wholesale or retail outlets (including plant stores) and from which no less than 5 percent of such receipts are distributed as Class I milk during the delivery period on routes to wholesale or retail outlets (including plant stores) located in the marketing area. Provided, That percentages used in this paragraph and paragraph (b) of this section, shall apply to such total receipts of both butterfat and skim;

(b) A city or country plant from which no less than 55 percent of its approved milk during each of the delivery periods of September, October, November, December and January is shipped to pool plants and assigned as reserve supply credit, pursuant to section 11, or distributed on routes to retail or wholesale outlets (including plant stores) located in the marketing area. Provided, That if a city or country plant qualifies in each of the designated months in the prescribed manner set out in this paragraph, such plant shall, upon written application to the Market Administrator on or before January 31, following such compliance, be designated as a pool plant until the end of the following August; and

(c) The following city plants which were included in a cooperative association pool calculation in the corresponding month of 1953

Cloverdale Dairy Company, Wheeling, W. Va.

Garvin's Jersey Farms Dairy, Wheeling, W. Va.

Liberty Dairy Products, Wheeling, W. Va. United Dairy Company, Wheeling, W Va. Ohio Valley Dairy and Products, Inc., Martins Ferry. Ohio.

A. D. Price Dairy, Bridgeport, Ohio. Golden Star Dairy, East Liverpool, Ohio. Ebenezer Farms Dairy, Wheeling, W. Va.

Sec. 11. Reserve supply credit. The hundredweight of reserve supply credit which may be assigned to approved milk transferred to a pool plant shall be calculated for each delivery period as follows: Deduct from the total hundredweight of skim milk and butterfat disposed of from the transferee-plant as Class I milk on routes to retail or wholesale outlets (including plant stores) an amount calculated by multiplying the hundredweight of producer milk at such plant by .85. Any plus figure resulting from this calculation shall be known as reserve supply credit and shall be assigned pro rata to Class I approved milk received from country plants.

Sec. 12. Non-pool plant. "A non-pool plant" is any mik distributing, manufacturing, or processing plant other than a pool plant.

SEC. 13. Handler "Handler" means:
(a) Any person in his capacity as the operator of a city plant or a country plant; (b) a producer-handler or (c) a cooperative association qualified pursuant to section 18 with respect to milk from producers diverted for the account of such association from a pool plant to a non-pool plant.

SEC. 14. Producer-handler "Producer-handler" means any person who is a producer and who processes milk from his own farm production, distributing all or a portion of such milk within the marketing area as Class I milk, but who, receives no other source milk or milk from other producers.

SEC. 15. Producer milk. "Producer milk" means only that skim milk or butterfat contained in milk (a) received at the pool plant directly from producers, or (b) diverted from a pool plant to a non-pool plant in accordance with the conditions set forth in section 7.

SEC. 16. Approved milk. "Approved milk" means any skim milk or butterfat contained in producer milk or in milk, skim milk or cream which is received from a pool plant, except the plant of a

producer-handler, and which is approved by the appropriate health authority for distribution as Class I milk in the marketing area.

SEC. 17. Other source milk. "Other source milk" means all skim milk and butterfat received in any form except (a) approved milk, or (b) Class II and III non-fluid milk products which are received and disposed of without further processing or packaging, and the volume of skim milk and butterfat represented by frozen cream and other manufactured dairy products which are used during the month to produce another dairy product.__

SEC. 18. Cooperative association. "Cooperative association" means any cooperative marketing association of producers which the Secretary determines, after application by the association: (a) To be qualified under the provisions of the act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act" (b) to have full authority in the sale of milk of its members and to be engaged in making collective sales or marketing milk or its product for its members; and (c) to have all of its activities under the control of its members.

MARKET ADMINISTRATOR

SEC. 20. Designation. The agency for the administration of this subpart shall be a market administrator, selected by the Secretary who shall be entitled to such compensation as may be determined by and shall be subject to removal at the discretion of, the Secretary.

SEC. 21. Powers. The market administrator shall have the following powers with respect to this subpart:

- (a) To administer its terms and provisions:
- (b) To receive, investigate and report to the Secretary complaints of violations;
- (c) To make rules and regulations to effectuate its terms and provisions; and (d) To recommend amendments to

the Secretary.

SEC. 22. Duties. The market administrator shall perform all duties necessary to administer the terms and provisions of this subpart, including, but not limited to, the following:

- (a) Within 45 days following the date on which he enters upon his duties or such lesser period as may be prescribed by the Secretary execute and deliver to the Secretary a bond, effective as of the date on which he enters upon his duties and conditioned upon the faithful performance of such duties, in an amount and with surety thereon satisfactory to the Secretary
- (b) Employ and fix the compensation of such persons as may be necessary to enable him to administer its terms and provisions;
- (c) Obtain a bond in a reasonable amount and with reasonable surety thereon covering each employee who handles funds entrusted to the market administrator;
- (d) Pay, out of the funds received pursuant to section 86, the cost of his bond and of the bonds of his employees, his own compensation and all other ex-

penses (except those incurred under section 87) necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties:

(e) Keep such books and records as will cleary reflect the transactions provided for in this subpart and submit such books and records to examination by the Secretary as requested:

(f) Furnish such information and such verified reports as the Secretary

may request;

(g) Prepare and disseminate, for the benefit of producers, consumers and handlers, such statistics and information concerning the operation of this subpart as to not reveal confidential information:

(h) Publicly disclose to handlers and producers, at his discretion, the name of any handler who, after the date on which he is required to perform such acts, has not made reports pursuant to sections 30 to 33 or payments pursuant to sections 80 to 87.

(i) Verify all reports and payments of each handler by audit, if necessary of such handler's records and the records of any other handler or person upon whose utilization the classification of skim milk and butterfat for such handler depends: and

(j) Publicly announce on or before:(1) The 10th day of each delivery period the minimum price for Class I milk pursuant to section 51 for the next following month; and the minimum price for Class II and III milk pursuant to sections 52 and 53, both for the preceding month; and

(2) The 11th day after the end of each delivery period, the uniform price pursuant to section 71 and the producer butterfat differential pursuant to section

(k) On or before the 15th day after the end of each month, report to each cooperative association of producers qualified pursuant to section 88, which so requests, the percentage of the milk caused to be delivered by the cooperative association or by its members to the pool plant(s) of each handler during the month, which was utilized in each class. For the purpose of this report, the milk so delivered shall be allocated to each class for each handler in the same ratio as all approved milk received by such handler during the month.

REPORTS, RECORDS AND FACILITIES

SEC. 30. Reports of receipts and utilization. On or before the 7th day after the end of each delivery period, each handler, except a producer-handler, shall report for such delivery period to the market administrator in the detail and on forms prescribed by the market administrator.

(a) The quantities of skim milk and butterfat contained in all receipts at each of his city and country plants of (1) milk from producers: (2) skim milk or butterfat in any form from pool plants, and (3) other source milk,

(b) The quantities of skim milk and butterfat contained in milk diverted to non-pool plants:

• (c) The utilization at each of his city or country plants of all skim milk and butterfat required to be reported pursuant to paragraphs (a) and (b) of this section including a separate statement of the disposition of Class I milk outside the marketing area;

(d) The name and address of each producer from whom milk is received for the first time, and the date on which such milk was first received; and

(e) The name and address of each producer who discontinues deliveries of milk, and the date on which milk was last received from such producer.

SEC. 31. Reports of payments to producers. On or before the 20th day after the end of each delivery period, each handler shall report to the market administrator his producer payroll for such delivery period which shall show for each producer (a) the total pounds of milk received from such producer with the average butterfat test thereof. (b) the net amount of the payment made to such producer together with the price. deductions, and charges involved, and (c) the amount and nature of any payments made pursuant to section 87.

Sec. 32. Reports of transportation rates. On or before the 10th day after the request of the market administrator, each handler shall submit a schedule of transportation rates which are charged and paid for the transportation of milk from the farm of each producer to such handler's plant. Any changes made in this schedule of transportation rates and the effective dates thereof shall be reported to the market administrator within 10 days.

SEC. 33. Reports of producer-handlers. Each producer-handler shall make reports to the market administrator at such time and in such manner as the market administrator may request and shall permit the market administrator to verify such reports.

SEC. 34. Records and facilities. Each handler shall keep adequate records of receipts and utilization of all skim milk and butterfat and shall, during the usual hours of business, make available for such examination of the market administrator or his representative all records, facilities, operations, and equipment as the market administrator deems necessary to (a) verify the receipts and utilization of all skim milk and butterfat and. in case of errors or omissions, ascertain the correct figure: (b) weigh, sample, and test for butterfat and other content all milk and milk products handled; and (c) verify payments to producers.

SEC. 35. Retention of records. books and records required under this subpart to be made available to the market administrator shall be retained by the handler for a period of 3 years to begin at the end of the calendar month to which such books and records pertain: Provided, That if, within such 3-year period, the market administrator notifies the handler in writing that the retention of such books and records, or of specified books and records, is necessary in connection with a proceeding under section 8c (15) (A) of the act or a court action specified in such notice, the handler shall retain such books and records, or specified books and records, until further written notification from the market administrator. In either case, the market administrator shall give further written notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection therewith.

CLASSIFICATION

SEC. 40. Basis of classification. All skim milk and butterfat received by a handler at a city or country plant and which is required to be reported pursuant to section 30 shall be classified by the market administrator pursuant to the provisions of sections 41 through 43.

SEC. 41. Classes of utilization. Subject to the conditions set forth in sections 42 and 43 the classes of utilization shall be as follows:

- (a) Class I milk shall be all skim milk (including reconstituted skim milk) and butterfat:
- (1) Disposed of in fluid form as milk, skim milk or buttermilk (except for livestock feed) flavored milk or flavored milk drinks, eggnog, mixtures containing under 18 percent butterfat, or used to produce concentrated or reconstituted milk;
- (2) Transferred as any item included in subparagraph (1) of this paragraph from a pool plant to the plant of a producer-handler, or transferred as any such item to a non-pool plant located more than 240 miles from the Court House, Wheeling, West Virginia, by shortest highway distance as determined by the market administrator.
- (3) Milk used for sweet or sour cream and any product not specified in Classes II and III which contains 18 percent or more butterfat; and
- (4) All milk and butterfat the classification of which is not established by records in some other class.
- (b) Class II milk shall be: (1) That disposed of as ice cream, ice cream mix, cottage cheese, bulk condensed, and (2) disposed of in bulk in any of the forms specified in paragraph (1) of this section to bakeries, soup companies and candy manufacturing establishments in their capacity as such, or (3) disposed of in other products accounted for but not specified in Class I or III,
- (c) Class III milk shall be all skim milk and butterfat used to produce butter, butter oil, or cheese (except cottage cheese) nonfat dry milk solids, dry whole milk, evaporated or condensed milk in hermetically sealed cans, casein, milk or butterfat disposed of for livestock feed, and contained in inventory at the end of the month as bulk milk or cream and in the forms specified in paragraphs (a) (1) and (3) of this section; and
- (d) Shrinkage—actual shrinkage of milk received from producers, not to exceed 2 percent of such receipts, shall be prorated over the several classes.
- Sec. 42. Responsibility of handlers and reclassification of milk. (a) All skim milk and butterfat shall be classified as Class I milk unless the handler who first receives such skim milk and butterfat proves to the market administrator that such skim milk and butter-

fat should be classified in another class; and

(b) Any skim milk or butterfat which was classified as Class III in the previous month pursuant to section 41 (c) (inventory) shall be reclassified as Class I to the extent that it is subtracted in the current month from Class I pursuant to section 45 (d) but in Class II to the extent that it is subtracted in the current month from Class II pursuant to section 45 (d)

SEC. 43. Transfers. (a) Skim -milk and butterfat disposed of in the form of milk, skim milk, or cream by transfer from a pool plant to a pool plant of another handler, except a producer-handler, shall be classified as Class I milk unless utilization in another class is mutually indicated in writing to the market administrator by both handlers on or before the 7th day after the end of the delivery period within which such transaction occurred, in which case such skım milk and butterfat shall be classified according to such mutual agreement; Provided, That skim milk or butterfat so assigned to Class II or Class III milk shall be limited to the amount thereof remaining in such class in the plant of the transferee-handler after the subtraction of other source milk pursuant to section 45, and transfers of skim milk or butterfat, respectively in excess of that so remaining shall be assigned to Class I milk:

(b) Skim milk and butterfat disposed of in the form of milk, skim milk, or cream by transfer or diversion from a pool plant to a producer-handler shall be classified as Class I milk; and

(c) Skim milk and butterfat disposed of in the form of milk, skim milk or cream by transfer or diversion from a pool plant to a non-pool plant shall be classified as Class I milk unless:

(1) The product is transferred or diverted in bulk form or in producer cans;

- (2) The transferee-plant is located within 240 miles from the Court House in Wheeling, West Virginia and the handler claims Class II or Class III on the basis of a utilization mutually indicated in writing to the market administrator by both the handler and the operator of the transferee-plant on or before the 7th day after the end of the delivery period within which such transactions occurred:
- (3) The operator of the transfereeplant maintains books and records, showing the utilization of all skim milk and butterfat received in any form at such plant, which are made available if requested by the market administrator for the purpose of verification; and
- (4) Equivalent amounts of skim milk and butterfat, respectively, were actually utilized in the transferee-plant in the use claimed: Provided, That if less than equivalent amounts of skim milk and butterfat, respectively, were actually used in the claimed use, the difference shall be classified as Class I milk: And provided further That the skim milk and butterfat shall be classified as Class I to the extent that the total Class I utilization at the transferee-plant exceeds the milk received directly from

dairy farmers who constitute such nonpool plant's regular supply.

(d) Skim milk and butterfat disposed of in the form of milk, skim milk, or cream from a pool plant to retail establishments shall be classified as Class I milk.

SEC. 44. Classification of skim milk and butterfat for each handler. For each month the market administrator shall correct for mathematical and for other obvious errors the monthly report submitted by each handler and compute separately the respective amounts of skim milk and butterfat in Class I milk, Class II milk, as follows:

- (a) Determine the handler's total receipts by adding together the total pounds of milk, skim milk, and cream received, and the pounds of skim milk and butterfat used to produce all other milk products received (except milk products disposed of in the form in which received without further processing in his fluid milk plant) regardless of source:
- (b) Determine the total pounds of butterfat contained in the total receipts computed pursuant to paragraph (a) of this section:
- (c) Determine the total pounds of skim milk contained in the total receipts computed pursuant to paragraph (a) of this section by subtracting therefrom the total pounds of butterfat computed pursuant to paragraph (b) of this section; and
- (d) Determine the total pounds of butterfat in Class I milk by
- (1) Computing the aggregate amount of butterfat included in each of the several items of Class I milk;
- (2) Adding all other butterfat not specifically accounted for under subparagraph (1) of this paragraph or in Class II milk or Class III milk; and
- (3) Adding pro rata share of plant shrinkage of butterfat referred to in paragraph (d) of section 41.
- (e) Determine the total pounds of skim milk in Class I milk by
- Computing the aggregate amount of skim milk and butterfat included in each of the several items of Class I milk;
- (2) Subtracting the result obtained in paragraph (d) (1) of this section,
- (3) Adding all other skim milk not specifically accounted for under subparagraph (1) of this paragraph or in Class II milk or Class III milk; and
- (4) Adding the pro rata share of plant shrinkage of skim milk referred to in paragraph (d) of section 41.
- (f) Determine the total pounds of butterfat in Class II milk by computing the aggregate amount of butterfat included in each of the several items of Class II milk:
- (1) Adding pro rata share of plant shrinkage of butterfat used to produce products referred to in paragraph (d) of section 41.
- (g) Determine the total pounds of skim milk in Class II milk by
- (1) Computing the aggregate amount of skim milk and butterfat used to produce products in each of the several items of Class II milk:

- paragraph (f) of this section; and
- (3) Adding the pro rata share of plant shrinkage of skim milk referred to in paragraph (d) of section 41.
- (h) Determine the total pounds of butterfat in Class III milk by
- (1) Computing the aggregate amount of butterfat used to produce each of the several items of Class III milk; and
- (2) Adding pro rata share of plant shrinkage of butterfat referred to in paragraph (d) of section 41.
- (i) Determine the total pounds of skim milk in Class III milk by
- (1) Computing the aggregate amount of skim milk and butterfat (in whatever form) used to produce each of the several items of Class III milk;
- (2) Subtracting the result obtained in paragraph (h) (1) of this section; and
- (3) Adding the pro rata share of plant shrinkage of skim milk referred to in paragraph (d) of section 41.
- SEC. 45. Classification of skim milk and butterfat in producer milk for each han-For each month the market administrator shall compute separately the respective amounts of skim milk and butterfat of producer milk in Class I milk, Class II milk and Class III milk for each handler by making the following computations in the order specified:
- (a) Subtracting from each class milk the actual plant shrinkage of skim milk and butterfat, respectively, prorated to that class as allowed pursuant to paragraph (d) of section 41.
- (b) Subtracting from the remaining pounds of skim milk and butterfat, in series beginning with the lowest-priced uses, the skim milk and butterfat, respectively received as other source milk;
- (c) Subtracting from the remaining pounds of skim milk and butterfat, in series beginning with the lowest-priced uses, the skim milk and butterfat, respectively received from any other handler who received no milk from producers or from an association of producers other than such handler's own farm production,
- (d) Subtract from the remaining pounds of skim milk and butterfat in each class, in series beginning with Class III, the pounds of skim milk and butterfat in inventory at the beginning of the month in the form of milk, skim milk, cream or any product specified in section 41 (a) (1) or (3)
- (e) Adding to each remaining Class the amount of plant shrinkage allowed pursuant to paragraph (d) of section 41 which is attributable to producer milk by prorating shrinkage to producer milk and receipts assigned under (b) and (c) of this section, and
- (f) Subtracting from the remaining pounds of skim milk and butterfat in each class the total pounds of skim milk and butterfat, respectively received from other handlers as classified in section 43 (except those referred to in paragraph (c) of this section)

MINIMUM PRICES

Sec. 51. Class I milk. The minimum price paid per hundredweight by each handler, f. o. b. his pool plant, for milk of 3.5 percent butterfat content received

(2) Subtracting the result obtained in from producers and which is classified as Class I shall be computed as follows:

The market administrator shall compute and announce on the 10th day of each month (or on the next business day if the 10th is a holiday) from the available data for the previous month, the index values computed pursuant to subparagraphs (1) and (2) of this section, the Class I price for the next month.

(1) Using a base period consisting of available data for the moving average of a ten calendar year period beginning with January 1947.

- (a) Compute an index of wholesale commodity prices by using latest monthly index figures of wholesale commodity prices published by the Bureau of Labor Statistics, United States Department of Labor ·
- (b) Compute an index of prices paid by Pennsylvania farmers, per hundredweight for 20 percent protein mixed dairy feed from the monthly price for such feed published by the Pennsylvania Federal-State Crop Reporting Service;
- (c) Compute an index of prices received by Pennsylvania farmers for farm products except dairy published by the Pennsylvania Federal-State Crop Reporting Service:
- (d) Compute an index of the monthly average price paid by 15 Midwest con-denseries as reported by the United States Department of Agriculture; and
- (e) Compute an index of average wages paid for farm labor by Pennsylvania farmers as reported as the composite wage index by the United States Department of Agriculture.
- (2) Divide the sum of the indexes calculated in subparagraphs (1) (a) through (e) of this paragraph by 5. This figure shall be the formula index. and shall determine the Class I price for each calendar month as follows:
- (a) Multiply the index computed in subparagraph (2) by the average price received for 3.5 percent Class I milk by farmers shipped direct to Pittsburgh during the base period as designated in paragraph (1) of this section and subtract 35 cents: Provided, That such price thus computed shall not be less than \$1.50, nor more than \$2.00, per hundredweight above the highest alternative price for 3.5 percent milk computed as follows:
- (1) Price paid for all manufacturing milk of 3.5 fat content as reported by the United States Department of Agriculture:
- (2) The price for Class II milk of 3.5 fat content as computed in section 52 of this proposal, exclusive of paragraph
- (3) Intended support price for manufactured milk as announced by the Secretary of Agriculture, and converted to 3.5 fat content.
- (b) Provided, that prices so determined shall be subject to the following bracket schedule.

	Bracketea prices	
At least—	but less than—	price
84.00	\$4.22	84.11
\$4.22	84.44	\$4.33
\$4.44	84.66	\$4.55
84.66	\$4.88	84.77
84.88	\$5.10	\$4.99
	\$5.32	
	\$5.5 4	
,		

	Bracketed prices	Class I
At least—	but less than-	price
\$5.54	\$5.76	\$5.65
	\$5.98	
\$5.98	\$6.20	\$6.09
	\$6.42	

- (c) The price computed above shall be varied seasonally as follows: April through August-less 40 cents; Other months-plus 40 cents: Provided, That seasonal variation in the formula price shall not become effective until Septem-
- ber 1, 1955
 (d) The price per hundredweight of butterfat in Class I shall be the price obtained in (2) (c) of this section multiplied by 18.5; and
- (e) The price of skim milk per hundredweight in Class I shall be the sum obtained in (2) (c) of this section, minus 0.035 times the price of butterfat obtained in (c) of this section, divided by

Sec. 52. The prices per hundredweight of butterfat and skim milk in Class II are computed as follows:

- (a) The price per hundredweight of butterfat shall be 115 times the price per pound of New York 92-score butter, as published for the period from the 26th day of the immediately preceding delivery period through the 25th day of the current delivery period, by the United States Department of Agriculture;
- (b) The price per hundredweight of skim milk shall be the price per pound of nonfat dry milk solids (spray process, in barrels, for human consumption in Chicago) minus 5.5 cents, multiplied by 8.5, as published for the period from the 26th day of the immediately preceding delivery period through the 25th day of the current delivery period, by the United States Department of Agriculture; and
- (c) Provided, That during each of the months of April, May June, July and August the prices of butterfat and skim milk as computed in paragraphs (a) and (b) in this section shall be reduced by 2 cents and 0.135 cents per pound, respectively.

SEC. 53. Class III. The price per hundredweight for Class III milk shall be that computed from the following formula.

- (1) Multiply by 4.24 the simple average, as computed by the market administrator, of the daily wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92score) bulk creamery butter per pound at Chicago, as reported by the United States Department of Agriculture, during the delivery period;
- (2) Multiply by 8.2 the weighted average of carlot prices per pound for spray process nonfat dry milk solids, for human consumption, f. o. b. manufacturing' plants in the Chicago area, as published for the period from the 26th day of the immediately preceding delivery period through the 25th day of the current delivery period, by the United States Department of Agriculture:
- (3) From the sum of the results arrived at under subparagraphs (1) and (2) of this paragraph, subtract 75 cents;
- (4) The price per hundredweight of butterfat in Class III shall be that as computed in 52 (a) minus \$5.00;

(5) The price per hundredweight of skim milk in Class III shall be the sum obtained in (3) of this section minus .035 times the price of butterfat obtained in (4) divided by 0.965, and

(6) Provided, that during each of the months of April, May, June, July and August the prices of butterfat and skim milk as computed in paragraphs (4) and (5) of this section shall be reduced by 2.5 cents and 0.25 cent per pound. respectively.

UNPRICED MILK

SEC. 54. Rate of payment on unpriced milk. The rate of payment per hundredweight to be paid by handlers on unpriced milk disposed of as Class I in the marketing area shall be the amount obtained by subtracting the Class III from the Class I price.

APPLICATION OF PROVISIONS

SEC. 60. Producer-handlers. Sections 40 through 45, 51 through 54, 70 through 74 and 80 through 89 shall not apply to a producer-handler.

SEC. 61. Plants subject to other Federal orders. In the case of any plant which the Secretary determines disposes of a greater portion of its milk as Class I milk on retail or wholesale routes (including plant stores) in another marketing area regulated by another order or marketing agreement issued pursuant to the act than is disposed of as Class I milk on retail or wholesale routes (including plant stores) in the Wheeling marketing area the provisions of this order shall not apply except as follows:

(1) If the price which such handler is required to pay under the other Federal order to which he is subject for skim milk and butterfat which would be classified as Class I milk under this subpart is less than the price provided by this order, such handler shall pay to the market administrator for deposit into the producer-settlement fund (with respect to all skim milk and butterfat disposed of as Class I milk within the marketing area) an amount equal to the difference between the value of such skim milk or butterfat as computed pursuant to this order and its value as determined pursuant to the other order to which he is subject:

(2) The value of milk disposed of by a handler as Class I milk within the marketing area of any other Federal milk marketing agreement or order issued pursuant to the act, which milk is not subject to the pricing and payment provisions of such agreement or order, shall be computed as the Class I price provided in such other agreement or order adjusted pursuant to any applicable location adjustments, if such Class I price is higher than the Class I price provided in this subpart; and

(3) The operator of such plant shall. with respect to the total receipts and utilization of skim milk and butterfat, at the plant make reports to the market administrator at such time and in such manner as the market administrator may require, and allow verification of such reports by the market administrator.

SEC. 62. Handlers operating non-pool plants, None of the provisions from sections 43 through 53, inclusive, or from sections 70 through 85, inclusive, shall apply in the case of a handler in his capacity as the operator of a non-pool plant, except that such handler shall, on or before the 15th day after the end of each delivery period, pay to the market administrator for deposit into the producer-settlement fund an amount calculated by multiplying the total hundredweight of butterfat and skim milk disposed of as Class I milk from such plant to retail or wholesale outlets (including plant stores) in the marketing area during the delivery period, by the price arrived at as determined in section 54.

DETERMINATION OF UNIFORM PRICE

Sec. 70. Computation of pool value for each handler operating a pool plant. The pool value for each delivery period for each handler operating a pool plant shall be a sum of money computed by the market administrator by multiplying by the applicable prices for skim milk and butterfat in each class pursuant to sections 51, 52 and 53 the skim milk and butterfat in milk received from producers according to their classification pursuant to sections 40 and 41, and adding together the resulting amounts, plus any sum computed as follows: For any inventory which is subtracted from Class I or Class II milk under the allocation provisions and which is not in excess of the quantity of producer milk classified in Class III less shrinkage, the previous month, an amount shall be added which is equal to the value of such reclassified inventory at the difference between the respective class prices during the month. Provided, That if such handler, after subtracting all receipts of skim milk and butterfat, respectively, other than in milk received from producers has a utilization of skim milk or butterfat greater than has been accounted for in milk received from producers, there shall be added a further amount equal to the quantity of such excess of skim milk or butterfat multiplied by the applicable prices.

SEC. 71. Computation of uniform price. For the delivery periods of September through January the market administrator shall compute the uniform price per hundredweight for producer milk, on the basis of 3.5 percent butterfat content as follows:

(a) Combine into one total the values computed pursuant to section 70 for all handlers:

(b) Subtract if the average butterfat content of producer milk represented by the values included under paragraph (a) of this section is greater than 3.5 percent, or add, if such average butterfat content is less than 3.5 percent, an amount computed as follows: Multiply the amount by which the average butterfat content of such milk varies from 3.5 percent by the butterfat differential and multiply the result by the total hundredweight of such milk;

(c) Add an amount representing the cash balance on hand in the producersettlement fund, less the total amount of contingent obligations:

(d) Divide the resulting amount by the total hundredweight of producer milk included in these computations; and (e) Subtract not less than 4 cents nor more than 5 cents for the purpose of retaining in the producer-settlement fund a cash operating balance. This result shall be known as the "uniform price" per hundredweight for such delivery period for producer milk contain-

ing 3.5 percent butterfat, f. o, b. fluid

milk plant.

SEC. 72. Computation of uniform prices for base milk and excess milk. For each, of the delivery periods of February through August, the Market Administrator shall compute the uniform prices per hundredweight for base milk and for excess milk, each of 3.5 percent butterfat content, as follows:

(a) Combine into one total the values computed pursuant to section 70 for all handlers:

(b) Subtract if the average butterfat content of producer milk represented by the values included under paragraph (a) of this section is greater than 3.5 percent, or add, if such average butterfat content is less than 3.5 percent, an amount computed as follows: Multiply the amount by which the average butterfat content of such milk varies from 3.5 percent by the butterfat differential, and multiply the result by the total hundredweight of such milk;

(c) Add an amount representing the cash balance on hand in the producersettlement fund, less the total amount of

contingent obligations;

(d) Compute the value on a 3.5 percent butterfat basis of the aggregate quantity of excess milk for all handlers included in the computation pursuant to paragraph (a) of this section by multiplying the hundredweight of such milk not in excess of the total quantity of Class III milk included in such computation by the price for Class III milk of 3.5 percent butterfat content, multiplying the hundredweight of such milk in excess of the total hundredweight of such Class III milk and not in excess of Class II, by the price for Class II milk of 3.5 percent butterfat content and multiplying any remaining quantity of excess milk by the Class I price and adding together the resulting amounts;

(e) Divide the total value of excess milk obtained in paragraph (d) of this section by the total hundredweight of such milk, and adjust to the nearest cent... Subtract not less than 4 cents nor more than 5 cents from the amount computed pursuant to paragraph (g) of this section. The resulting figure shall be the uniform price for excess milk of 3.5 percent butterfat content received from producers:

(f) Subtract the value of excess milk determined by applying the uniform price obtained in paragraph (e) of this section from the value of all milk obtained in paragraph (c) of this section;

(g) Divide the amount obtained in paragraph (f) of this section by the total hundredweight of base milk included in these computations; and

(h) Subtract not less than 4 cents nor more than 5 cents from the amount computed pursuant to paragraph (g) of this section. The resulting figure shall be the uniform price for base milk of 3.5 percent butterfat content received from producers.

SEC. 73. Computation of daily base. (a) Effective February 1, 1955, the daily average base of each producer who regularly delivered milk to a handler for ninety days or more during September through December of the next preceding calendar year shall be computed by the market administrator by dividing the total pounds of milk received by a handler from such producer during such months by the number of days within the period during which such producer made regular deliveries of milk in such months, or ninety whichever is the greater, adjusted by the percentage that average daily Class I sales of all approved plants during February-August was of average daily producer receipts during the period of September through December, plus ten percentage points;

- (b) The daily average base of each producer for whom no daily base may be established pursuant to paragraph (a) of this section shall be computed as follows:
- (1) Multiply such producer's daily average deliveries of milk during the current month by the percentage that total deliveries of base milk in the current month by producers for whom daily bases are computed pursuant to paragraph (a) of this section are to total deliveries of milk in the current month by all producers; and
- (2) Effective February 1, 1955 for the months of February through August only, divide the result obtained in subparagraph (1) of this paragraph by 1.5.

SEC. 74. Application of bases. (a) A base shall apply to deliveries of milk by the producer for whose account milk was delivered during the base period, and upon death may be transferred to a member or members of the deceased producer's immediate family and

(b) Bases may be transferred under the following conditions upon written notice by the holder of the base to the market administrator on or before the last day of the month that such base is to be transferred.

(1) Upon retirement or entry into military service of a producer, the entire base may be transferred to a member or members of his immediate family; and

- (2) Bases may be held jointly and if such joint holding is terminated the base may be transferred as specified in writing to the market administrator by the joint holders to a person or persons who maintain a dairy herd or herds on the same farm.
- (c) A producer who does not deliver milk to a handler for 45 consecutive days shall forfeit his base,
- SEC. 75. Notification. The market administrator shall notify:
- (a) On or before the 14th day after the end of each delivery period, each handler who operates a pool plant of:
 - (1) The amounts and pool values of

his skim milk and butterfat in each class and the totals of such amounts and values;

(2) The uniform price;

(3) The amount due such handler from the producer-settlement fund or the amount to be paid by such handler to the producer-settlement fund, as the case may be; and

(4) The totals of the minimum amounts to be paid by such handler pursuant to sections 80, 84, 86, 87, 88 and 89.

- (b) On or before the 14th day after the end of each delivery period each handler described in section 13:
- (1) The pounds of his skim milk and butterfat in milk, skim milk, buttermilk, flavored milk, and flavored milk drink subject to the provisions of this section; and
- (2) The amount due the producer-settlement fund from each such handler.

PAYMENT

Sec. 80. Time and method of payment. (a) Except as provided by paragraph (b) of this section, on or before the 20th day after the end of each delivery period. each handler (except a cooperative association) shall pay each producer for milk received from him within such delivery period, not less than an amount of money computed by multiplying the total pounds of such milk by the uniform price, less the location adjustment pursuant to section 81 and adjusted by the butterfat differential pursuant to section 82: Provided, That if by such date such handler has not received full payment for such delivery period pursuant to section 85 he may reduce such payments uniformly per hundredweight for all producers, by an amount not in excess of the per hundredweight reduction in payment from the market administrator however, the handler shall make such balance of payment to those producers to whom it is due on or before the date for making payments pursuant to this paragraph next following that on which such balance of payment is received from the market administrator.

(Provision should be made for semimonthly payment.)

(b) On or before the 19th day after the end of each delivery period, each handler shall pay a cooperative association not a handler, with respect to milk of its member-producers for which it has directed the handler to make payment, a total amount not less than the sum of the individual amounts otherwise payable to such producers pursuant to paragraph (a) of this section; and

(c) On or before the 15th day after the end of each delivery period, each handler shall pay a cooperative association which is a handler, with respect to skim milk and butterfat received by him from a pool plant operated by such cooperative association, not less than an amount computed by multiplying the minimum prices for skim milk and butterfat respectively, in each class, by the hundredweight of skim milk and butterfat, respectively, in each class pursuant to sections 44 and 45.

SEC. 82. Butterfat differential. In making payments pursuant to paragraphs (a) and (b) of section 80 there

shall be added to or subtracted from, the uniform price per hundredweight, for each one-tenth of 1 percent of such butterfat content in milk above or below 3.5 percent, as the case may be, a butterfat differential computed by the market administrator as follows:

- (a) Multiply the hundredweight of butterfat in each class computed pursuant to section 44 by the applicable minimum price for butterfat in such class computed pursuant to sections 51, 52 and 53,
- (b) Add into one total the butterfat values obtained in paragraph (a) of this section and divide such total by the total hundredweight of butterfat in all classes computed pursuant to section 44 to determine a weighted average price for butterfat; and
- (c) Subtract from the weighted average price per hundredweight of butter-fat computed in paragraph (b) of this section a weighted average price per hundredweight of skim milk computed as follows:
- (1) Multiply the hundredweight of skim milk computed in each class pursuant to section 44 by the respective minimum price for skim milk in such class computed pursuant to sections 51, 52 and 53: and
- (2) Add into one total the skim milk values so obtained for all classes and divide such total by the total hundredweight of skim milk in all classes computed pursuant to section 45.
- (d) Divide by 1,000 the price of butterfat resulting pursuant to paragraph (c) of this section and round off to the nearest tenth of a cent.
- SEC. 83. Producer-settlement fund. The market administrator shall establish and maintain a separate fund, known as the "producer-settlement fund" into which he shall deposit all payments made pursuant to section 84 and out of which he shall make all payments pursuant to section 85.

SEC. 84. Payments to the producersettlement fund. On or before the 16th day after the end of each delivery period, each handler

- (a) Whose pool value is required to be computed pursuant to section 70, shall pay to the market administrator the amount by which such pool value for such delivery period is greater than the total minimum amount required to be paid by him pursuant to paragraphs (a) and (b) of section 80; and
- (b) Whose obligation is required to be computed pursuant to section 62, shall pay to the market administrator such obligation for such delivery period.

SEC. 85. Payments out of the producer-settlement fund. On or before the 18th day after the end of each delivery period, the market administrator shall pay to each handler the amount by which such handler's pool value pursuant to section 70 is less than the total minimum amount required to be paid by him pursuant to paragraphs (a) and (b) of section 80, less any unpaid obligations of such handler to the market administrator pursuant to section 84, 86, 87, or 89: Provided, That if the balance in the producer-settlement fund is

insufficient to make all payments to all such handlers pursuant to this paragraph, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds become available.

SEC. 86. Expense of administration. As his pro rata share of the expense incurred pursuant to paragraph (d) of section 22, each handler shall pay the market administrator on or before the 16th day after the end of each delivery period, three cents per hundredweight. or such lesser amount as the Secretary may from time to time prescribe, to be announced by the market administrator on or before the 14th day after the end of such delivery period, with respect to all receipts within the delivery period, of milk from producers at pool plants (including such handler's own production) of other source milk at pool plants. and of other source milk on which payment is required pursuant to section 62: Provided, That such payment shall not be made with respect to any milk subject to a payment required under the provision for expense of administration of any other Federal milk marketing agreement or order issued pursuant to the act for any fluid milk marketing

SEC. 87. Marketing services. Except as set forth in section 88 each handler in making payments to producers pursuant to paragraphs (a) and (b) of section 80, with respect to all milk received from each producer (except milk of such handler's own production) at a plant, not operated by a cooperative association of which such producer is a member, shall deduct five cents per hundredweight, or such lesser amount as the Secretary may from time to time prescribe, to be announced by the market administrator on or before the 14th day after the end of each delivery period; and, on or before the 16th day after the end of such delivery period, shall pay such deductions to the market administrator. Such monies shall be expended by the market administrator to verify weights, samples, and tests of the milk of such producers and to provide such producers with market information, such services to be performed in whole or in part by the market administrator, or by an agent engaged by and responsible to him.

SEC. 88. Cooperative association. In the case of producers whose milk is received at a plant, not operated by a cooperative association of which such producers are members, and for whom a cooperative association is actually performing the services described in section 87, as determined by the market adminıstrator, each handler shall make, ın lieu of the deductions specified in section 87. such deductions from payments required pursuant to paragraphs (a) and (b) of section 80 as may be authorized by such producers, and pay such deductions on or before the 16th day after the end of each delivery period to the cooperative association rendering such services of which such producers are members. •

Sec. 89. Adjustment of accounts—(a)
Payments. Whenever audit by the mar-

ket administrator of any handler's reports, books, records or accounts discloses adjustments to be made, for any reason, which result in monies due (1) the market administrator from such handler, (2) such handler from the market administrator, or (3) any producer or cooperative association from such handler, the market administrator shall promptly notify such handler of any such amount due; and payment thereof shall be made on or before the next date for making payment set forth in the provision under which such error occurred, following the 5th day after such notice, and

(b) Overdue accounts. Any unpaid obligation of a handler or of the market administrator pursuant to sections 84, 85, 86, 87, 88 or 89 (a) shall be increased one-half of one percent on the first day of the calendar month next following the due date of such obligation and, on the first day of each calendar month thereafter until such obligation is paid.

By Cloverdale Dairy Co., Inc., Garvins Jersey Farms, Inc., United Dairy Co., Inc. Ohio Valley Dairy & Products, Inc., J. A. Hyest T/A Cloverland Dairy and Golden Star Dairy Co., Inc.,

Proposal No. 2: The marketing area be defined as follows:

SEC. 5. Wheeling Marketing Area. "Wheeling, W Va., Marketing Area" hereinafter called the marketing area, means the following territory.

- (1) Hancock County, West Virginia: All municipalities (including boroughs and townships).
- (2) Brooke County, West Virginia: All municipalities (including boroughs and townships).
- (3) Ohio County, West Virginia: All municipalities (including boroughs and townships)
- (4) Marshall County, West Virginia: All municipalities (including boroughs and townships).
- (5) Jefferson County, Ohio: All municipalities (including boroughs and townships).
 (6) Harrison County, Ohio: All municipalities (including boroughs and townships).
- (7) Belmont County, Ohio: All municipalities (including boroughs and townships).
- (8) Guernsey County, Ohio: All municipalities (including boroughs and townships).
 (9) Monroe County, Ohio: All municipali-
- ties (including boroughs and townships)
 (10) Columbiana County, Ohio: All cities, boroughs, and townships, with the exception of the township of Knox and the municipali-

By Garvin's Jersey Farms, Inc:

ties located therein.

Proposal No. 3: The marketing area include "All municipalities (including all cities, boroughs and townships) in the following counties in the State of West Virginia—Wetzel County Tyler County Harrison County and Marion County."

By the Isaly Dairy Company, Youngstown, Ohio:

Proposal No. 4. The marketing area should not include any areas located North of St. Clair, Madison, Wayne and Franklin townships in Columbiana County, Ohio and East, Augusta and Brown townships in Carroll County, Ohio.

By Ohio Valley Dairy & Products Inc., Garvin's Jersey Farms, Inc., The Cloverdale Dairy Co., Golden Star Dairy Co., Inc., and J. A. Hyest T/A Cloverland Dairy:

Proposal No. 5. Add the following paragraph to section 51.

Class I milk disposed of outside of marketing area. The price to be used in computing amount to be paid by each handler and uniform price for each delivery period for milk and butterfat disposed of as Class I outside the marketing area but not in any area subject to other Federal orders shall be the price determined by the market administrator as being paid to farmers in the market where such milk was disposed of, for milk of equivalent use less the applicable transportation allowance.

Proposal No. 6: Provide for location differentials to handlers by adding the following provision:

Location differentials to handlers. With respect to skim milk and butterfat contained in milk received from producers at a pool plant which is classified as Class I milk, the Class I price per hundredweight as computed in Section 51 shall be reduced by the amounts set forth in the following schedule, according to the shortest highway distance from the plant where the milk is received from producers, or the plant from which the milk is diverted, to the Court House in Wheeling, W Va.

Zone 1 (45 miles to 65 miles) 22ℓ . Zone 2 (over 65 miles) $22\ell+1\ell$ for each additional 10 miles over 65, but total allowance not to exceed 32ℓ per hundredweight.

The above location differentials shall apply even though the plants may be located in the marketing area.

Copies of this notice of hearing may be procured from the Hearing Clerk, Room 1370, South Building, United States Department of Agriculture, Washington 25, D. C., or may be there inspected.

Dated: January 5, 1955.

[SEAL] ROY W LENNARTSON,

Deputy Administrator

[F R. Doc. 55-170; Filed, Jan. 7, 1955; 8:51 a. m.]

DEPARTMENT OF COMMERCE

Civil Aeronautics Administration I 14 CFR Parts 1, 18, 24, 43, 52 I

ELIMINATION OF ANNUAL INSPECTION OF GENERAL AIRCRAFT

NOTICE OF PROPOSED RULE MAKING

Notice is hereby given that the Administrator of Civil Aeronautics contemplates the adoption of the following rules, policies and interpretations to implement the proposed amendments by the Civil Aeronautics Board to Parts 1, 18, 24, 43, and 52 of the Civil Air Regulations. The proposed amendments of the Board are set forth in a notice of proposed rule making published simultaneously herewith which contains a detailed explanation of the proposed provisions.

All interested persons who desire to submit comments and suggestions for

² See F. R. Doc. 55-155, infra.

consideration in connection with these proposed rules, policies or interpretations should send them to the Director, Office of Aviation Safety Civil Aeronautics Administration, Washington 25, D. C., within 30 days after publication of this notice in the Federal Register.

1. By amending § 1.64-1 to read as follows:

§ 1.64-1 Duration of experimental certificate (CAA policies which apply to § 1.64 (a) (1)) (a) Experimental airworthiness certificates will be issued to expire on a specific date, or will indicate a condition under which the certificate will automatically expire. The duration of the experimental airworthiness certificate may vary from one flight, to a limited number of operating hours, or days. In any case, the duration will not exceed one year.

(b) It is the policy of the CAA to do everything possible to encourage legitimate experimentation leading to improvement in aircraft whenever this may be done without endangering the lives of persons or property not involved in the experimentation. Since it is recognized that a certain amount of danger to the operator is inherent in all experimental flying, the airworthiness certificates issued for experimental aircraft will contain specific operating conditions and limitations designed to protect the lives and property of persons not involved in the experimentation.

- 2. By adding the following new sections to Part 18:
- § 18.10-2 Appropriately rated and certificated repair station (CAA interpretations which apply to § 18.10 (f) and (g)) An appropriately rated and certificated repair station is a repair station holding either Class Airframe or Limited Airframe ratings appropriate to the make and model of aircraft to be inspected.
- § 18.11-3 Appropriately rated and certificated repair station (CAA interpretations which apply to §§ 18.11 (c) (2) and (d)) An appropriately rated and certificated repair station is a repair station holding either Class Airframe or Limited Airframe ratings appropriate to the make and model of aircraft to be inspected, approved, and returned to service.
- § 18.22a-1 Aircraft maintenance records (CAA rules which apply to § 18.22a)—(a) Periodic inspections. (1) The mechanic or repair station conducting a periodic inspection of an aircraft will complete the franked Form ACA-2350 entitled "Aircraft Use and Inspection Report" in accordance with the instructions contained in Appendix A.4a and mail the form to the local Aviation Safety District Office as soon as possible but not later than 72 hours following such inspection.
- (2) In the event that a mechanic or repair agency conducting an inspection finds that an aircraft is unairworthy or does not conform with the applicable CAA aircraft specifications or airworthiness directives, the inspecting mechanic

or repair station shall, in addition to submitting Form ACA-2350, provide the owner or operator with a list of the discrepancies.

(b) Progressive inspections: (1) A repair station shall complete and mail the Aircraft Use and Inspection Report form to their local Aviation Safety District Office after the completion of the first inspection of an aircraft made in accordance with a progressive inspection, as soon as possible but not later than 72 hours after such inspection. Thereafter, this form shall also be completed by the repair station and submitted to the district office once each year during the month of January.

(2) When the progressive inspection system for a particular aircraft has been discontinued by a repair station, it shall notify the local Aviation Safety District Office thereof by completing an Aircraft Use and Inspection Report form and adding the word "discontinued" (typed or written) over the box preceding "progressive inspection" and mailing such form to the district office as soon as possible.

§ 18.30–18 Periodic inspection (CAA rules which apply to § 18.30 (c))—(a) General. The inspecting mechanic or repair station shall employ an inspection form as a checklist while performing a periodic inspection. Such form may be developed by the mechanic, repair station, or the manufacturer and shall be similar to the form given in Appendix A,⁴⁰ or reflect the detail of the items of inspection set forth in subdivisions (i) through (xi) of subparagraph (1) of this paragraph.

(1) Inspection procedures. Prior to inspection, all inspection plates, access doors, fairing and cowling shall be opened or removed and the aircraft and engine thoroughly cleaned to properly reflect the actual condition of the parts being inspected. Airworthiness of the aircraft shall be determined by thoroughly inspecting the pertinent items in subdivisions (i) through (xi) of this subparagraph in accordance with instructions contained in the aforementioned subdivisions, manufacturers' inspection procedures, supplemental service information, and standard inspec-tion practices. The aircraft shall also tion practices. conform with CAA aircraft specifications and airworthiness directives before being checked as airworthy

(i) Fuselage and hull group. The fuselage and/or hull shall be carefully inspected for general condition; fabric or skin for deterioration, distortion, other evidence of failure, and security of attachment of fittings. The various systems and components installed in this group shall be checked to assure that they are properly installed with no apparent defects and are operating satisfactorily When applicable, the same general inspection procedures will apply to lighter-than-air craft and a determination made of the condition of the envelope, gas bags, ballast tanks, etc. Rotary-wing-type aircraft or other craft utilizing rotor drive shafts or other similar systems shall have the shafts inspected in accordance with the manufacturer's maintenance manual.

(ii) Cabin and cockpit group. The cabin and cockpit shall be checked for cleanliness and/or loose equipment which might foul the controls; seats and safety belts for condition and apparent defects; windows and windshields for deterioration or breakage; instruments for proper operation, mounting, and marking; flight and engine controls for installation and operation, batteries for installation and proper charge; the various systems for installation, general condition, apparent and obvious defects and security of attachment. The above inspection procedure will also apply to the control car of lighter-than-air craft.

(iii) Engine and nacelle group. All engine cowling shall be removed and a visual inspection shall be made of the entire engine section for evidence of excessive oil, fuel, or hydraulic leaks. Any and all leaks shall be traced to their origin so that they may be corrected. All studs and nuts shall be checked for tightness or obvious defects. The general internal condition of the engine shall be determined by checking cylinder compression, condition of screens and sump drain plugs for foreign material and metal particles. Cylinders with weak compression shall be removed and the internal condition and clearances checked for tolerances. The engine mount shall be inspected for cracks, tightness of mounting, and security of engine attachment to mount. The flexible vibration dampeners shall be examined to insure that they are in good condition. The engine controls shall be examined for defects, proper travel, and safetying; lines for leaks and hoses and clamps for condition and tightness. Exhaust stacks shall be checked for cracks or other defects and satisfactory attachments. Accessories shall be examined for apparent defects and security of mounting. The various systems shall be inspected for proper installation, general condition, defects, and attachment. Cowling shall be inspected for cracks or other defects. On rotary-wing-type aircraft the main rotor transmission gear box shall be inspected for obvious defects as outlined in the manufacturer's maintenance manual.

(iv) Landing gear group. The landing gear shall be examined for general condition and security of attachment of all units. The oleo fluid level shall be proper height or other shock-absorbing devices shall be in good condition. All linkage, trusses, and members shall be inspected for evidence of undue or excessive wear, fatigue, distortion, and security of attachment. The retracting and locking mechanisms, when installed, shall be operating satisfactorily Hvdraulic lines shall be checked for leakage and electrical systems for chafing and proper operation of switches. wheels shall be removed and examined for cracks or other defects, tires for wear or cuts, brakes for proper adjustment. If floats or skiis are installed, they shall be inspected for security of attachment, general condition, and any obvious or apparent defects.

(v) Wing and center section group. The airworthiness of the wing and center section group shall be determined by thoroughly inspecting the complete

^{4a} Not filed with the Federal Register.

assemblies for general condition, fabric or skin for deterioration, distortion, other evidences of failure, and for security of attachment. This inspection shall include the various systems installed which make up a complete wing assembly Rotary-wing-type aircraft shall be inspected in accordance with the manufacturer's maintenance man-

(vi) Empennage group. The complete empennage assembly shall be inspected for general condition, fabric or skin for deterioration, distortion, other evidences of failure, and for security of attachment. Components and systems which make up the complete assembly shall receive the same attention and it shall be determined that they are installed properly and operating satisfactorily. Lighter-than-air craft shall be inspected in the same manner. Helicopters shall have the tail rotors inspected in accordance with the manufacturer's maintenance manual.

(vii) Propeller group. All parts of the propeller shall be carefully examined for cracks, nicks, bends, or oil leakage, if hydraulically controlled. All bolts shall be properly torqued and safetied. The propeller anti-icing devices shall be checked for proper operation or obvious defects. The control mechanism shall operate satisfactorily be securely mounted, and controls operate through

full range of travel.

(viii) Radio group. Radio and electronic equipment shall be inspected for installation and security of mounting. Wiring and conduits shall be checked for proper routing and security of mounting to prevent short-circuiting and that there are no obvious defects. Bonding and shielding shall be determined to be properly installed and in good condition. All antenna shall be inspected for condition and security and, if installed, trailing antenna mechanism shall be inspected for proper operation.

(ix) Miscellaneous group. When installed, the miscellaneous items of equipment shall be inspected to determine that the component or assembly is installed in accordance with accepted standard practices, and that the items

are operating satisfactorily

(x) Operational check; preflight. Prior to releasing an aircraft as airworthy for operation the engine or engines shall be run up to determine satisfactory performance by the power output (static and idle rpm) magneto drop, fuel and oil pressure, cylinder and oil temperatures in accordance with the manufacturer's recommendations.

- (xi) Aircraft maintenance record entries. (a) Where the aircraft is found to be in an airworthy condition after a periodic inspection, the mechanic or repair station releasing the aircraft to service shall enter the following notation in the aircraft maintenance records over the mechanic's or the repair station's name, certificate number, and date of inspection:
- I certify that this aircraft has been inspected in accordance with a periodic inspection and is determined to be in airworthy
- (b) Where the aircraft is found unairworthy because of needed maintenance or repairs or is found not to meet

the requirements of the applicable specifications or airworthiness directives, such unairworthy items may be corrected by the inspecting mechanic or repair station, or where required maintenance is to be performed by a person other than the one who conducted the periodic inspection, the person making the periodic inspection shall list the discrepancies in the aircraft maintenance records above the following statement:

I certify that this aircraft has been given a periodic inspection in accordance with the Civil Air Regulations and found that after the above discrepancies are corrected the aircraft will be in an airworthy condition.

Any person authorized under § 18.11 (a) to approve maintenance, minor repairs, and minor alterations may return the aircraft to service if only minor discrepancies are to be corrected and the appropriate entries are made in the aircraft records.

- § 18.30-19 Progressive inspection (CAA rules which apply to § 18.30 (c))-(a) General. (1) The progressive inspection is designed to permit the increased utilization of an aircraft, particularly a twin-engine type, by scheduling inspections through the use of a progressive inspection schedule. The inspection system shall consist of a routine inspection which provides a visual examination or check of the aircraft and its components and systems insofar as practical, without disassembly and a detailed inspection which will permit a thorough examination of the aircraft and its components and systems by such disassembly as necessary Since the overhaul of a component or system includes a thorough examination, such overhaul will be considered to be a detailed inspection. The frequency and detail of both the routine and detailed inspections shall be consistent with the manufacturers' recommendations, field service experience, and the type of operation in which the aircraft is engaged to insure that the aircraft and its components and systems are in an airworthy condition and conform with the applicable CAA aircraft specifications and airworthiness directives.
- (2) Such inspections shall include, but not be limited to, the items specified in Appendix A.4a The frequency of both inspections shall be outlined in the form and manner specified in the progressive inspection schedule contained in Appendix A,4" and shall specify the intervals when the inspections or overhauls will be performed, either in hours or days, as indicated therein.
- (b) Inspection procedures. A progressive inspection shall be conducted in accordance with the following procedures: The aircraft shall be inspected completely at the commencement of a progressive inspection. Thereafter, routine and detailed inspections shall be conducted at regular fixed intervals inaccordance with the inspection schedule and the repair station shall be required to inform the owner or the operator of the time for inspection of the aircraft. Normally, all inspection shall be conducted by the repair station having responsibility for the progressive inspection of such aircraft. However, where an

aircraft is en route when inspections become due, routine inspections may be performed by an appropriately rated and certificated mechanic or repair station, and detailed inspections may be performed by an appropriately rated repair station provided such inspections are conducted in accordance with the forms and procedures to be furnished by the repair station which would otherwise conduct the inspection of the aircraft. Upon completion of the inspection, such inspection forms shall be returned to the repair station furnishing the forms for their records.

(c) Records. Upon the satisfactory completion of a routine or detailed inspection conducted in accordance with a progressive inspection system, the mechanic or repair station conducting such inspection shall enter the following statement in the aircraft maintenance records, over the mechanic's or repair station's name, certificate number, and date of inspection:

This aircraft has been inspected in accordance with a progressive inspection and is released to service.

- 3. By adding the following new sections to Part 24.
- § 24.43-1 Inspection authorization (CAA rules which apply to § 24.43)—(a) Qualifications. Authority to examine, inspect, and release aircraft for service in accordance with § 24.43 (a) will be granted to any certificated mechanic applying in accordance with § 24.43-1 (b) who has the following additional quali-
- (1) His airframe and powerplant ratings shall have been in effect continuously for a minimum of three years immediately preceding the date of application.
- (2) He has been actively engaged in the inspection, maintenance, and repair of U.S. civil aircraft and engines for at least two years immediately preceding the date of application,
- (3) He shall have a fixed base of operation at which he can be contacted in person or by telephone during a normal working week. The fixed base of operation does not necessarily have to be the location at which the applicant will exercise the inspection authority.
- (4) He shall have available such equipment, facilities, and inspection data as are necessary for the competent and efficient inspection of airframe and powerplants to determine compliance with applicable Civil Air Regulations;
- (5) He shall have a satisfactory record as a CAA Designated Aircraft Maintenance Inspector for at least one year immediately preceding the date of application or
- (6) He shall by examination satisfactorily demonstrate his knowledge and ability to conduct inspections in accordance with the prescribed safety standards for returning aircraft to service after major repairs and alterations performed in accordance with CAR 18 and the inspections required by § 43.22 (a)
- (b) Procedure for making application. A certificated mechanic meeting the qualification requirements of paragraph (a) (1) through (5) of this section who desires the authorization to perform the

⁴a Not filed with the Federal Register.

privileges of § 24.43, shall make application on Form ACA-2353, entitled "Mechanic's Application for Inspection Authorization." Applicants who only meet the requirements of paragraph (a) (1) through (4) of this section shall complete Form ACA-2353 and shall satisfactorily accomplish the examination required in paragraph (a) (6) of this section. In the event an applicant fails the examination he may not apply for reexamination for 90 days.

(c) Inspection authorization. Applicants found qualified will be issued Form ACA-2354, entitled "Inspection Authorization." This inspection authorization shall be kept readily available by the mechanic at all times while exercising the privileges of § 24.43 and shall be available for inspection by the aircraft owner; by the mechanic submitting the aircraft or repair for approval, or by any authorized representative of the Administrator or the Civil Aeronautics Board. The holder of an inspection authorization shall not exercise the privileges of the authorization when he has changed his fixed base of operation until written notification thereof has been given to the Aviation Safety District Office in the area in which the new base is established.

(d) Duration of authorization. inspection authorization shall expire on Larch 31 of the year following issuance or renewal of the authorization.

(e) Procedure for renewal of authorization. The holder of an inspection authorization, Form ACA-2354, may have the authorization extended until March 31 of the following year by:

(1) Presenting evidence, to show that the holder has been actively engaged in exercising the privileges of the authorization in accordance with the prescribed standards, during the preceding 12 months, at an aviation safety meeting designated by the local Aviation Safety District Office during the month of March of each year or

(2) Reapplying for the inspection authorization in accordance with the procedure set forth in paragraph (b) of this section.

§ 24.43-2 Prescribed standards (CAA interpretations which apply to § 24.43) The phrase "standards prescribed by the Administrator" means the standards set forth in CAM 18 for returning major repairs and alterations to service and for returning aircraft to service after the inspections required by § 43.22 (a)

4. Section 43.23-1 of Part 43 is amended to read as follows:

§ 43.23-1 Aircraft and engine maintenance records (CAA rules which apply to § 43.23) The maintenance records prescribed in § 43.23 shall be suitably identified as to the make, model, serial number, and registration number if ap-

shall include the following information:

(a) Maintenance. The record of maintenance shall include the type and extent of maintenance, repair, overhaul, or inspection and reflect the time in service and date of completion.

(b) Compliance with mandatory Chronological listing of compliance with service bulletins, airworthiness directives, etc.

(c) Weight and balance record. Current empty weight and empty center of gravity

(d) Equipment list. List only optional equipment which has been added or removed. Required equipment need not be listed.

(e) Record of major repairs and major alterations. Reference to repair and alteration form ACA-337 by date or work order by number and approving agency is sufficient.

5. By adding a new § 43.23-2 to read as follows:

§ 43.23-2 Maintenance of engine logs (CAA interpretations which apply to 8 43.23) A record of the previous operating time and history of all engines overhauled, repaired, or reassembled to standards other than those for rebuilt engines, as defined in § 43.24-1, shall be retained in the engine logbooks.

6. By deleting §§ 52.22-1 (f) and 52.41-2 of Part 52.

[SEAL]

F B. LEE, -Administrator of Civil Aeronautics.

[F R. Doc. 55-156; Filed, Jan. 7, 1955; 8:48 a. m.]

DEPARTMENT OF LABOR

Wage and Hour Division [29 CFR Part 681]

HOMEWORKERS IN INDUSTRIES IN PUERTO RICO OTHER THAN NEEDLEWORK IN-DUSTRIES

NOTICE OF PROPOSED RULE MAKING

The present minimum piece rate for the hand-braiding of cotton tape buttons, 24 to 30 ligne, is 48 cents per gross: and the present minimum piece rate for the hand-braiding of leather buttons (with use of hand-cutting machine) 24 to 30 ligne, is 32 cents per gross. At the time these rates were established the straight time hourly rate for such operations was 40 cents, as fixed by the wage order for the button and buckle (other than pearl) and bead division of the button, buckle, and jewelry industry ın Puerto Rico.

However, on October 28, 1954, I approved the recommendation of Special Industry Committee No. 12 for Puerto Rico with respect to the leather and fabric button and buckle division of the button, buckle and jewelry industry and issued a wage order, effective December 6, 1954, fixing a minimum wage rate of 53 cents an hour for this division of the industry. Therefore, it is now necessary to adjust such minimum piece rates in order that they may continue

plicable, of the aircraft involved and to be commensurate with the applicable minimum hourly wage rate in accordance with section 6 (a) (2) of the Fair Labor Standards Act (sec. 6 (a) (2) 63 Stat. 912: 20 U.S.C. 206 (a) (2))

Accordingly notice is hereby given pursuant to the Administrative Procedure Act (60 Stat. 237 5 U.S. C. 1001) that the Administrator of the Wage and Hour Division, United States Department of Labor, proposes to rescind the minimum piece rate of 531/3 cents per gross prescribed for the hand-braiding of 24 to 30 ligne leather buttons since this operation is no longer performed in Puerto Rico, and to establish the following minimum piece rates for the performance of the following operations by homeworkers in Puerto Rico. A minimum piece rate of 64 cents per gross for the hand-braiding of 24 to 30 ligne cotton tape buttons, and a minimum piece rate of 42 cents per gross for the hand-braiding of 24 to 30 ligne leather buttons (with use of handcutting machine) The hand-braiding of cotton tape buttons consists of tying a braided knot around the tip of a finger, bringing the knot into a rounded button shape by pulling the ends of the strip, inserting the ends of the strip into the braided part, and bringing the ends together. The hand-braiding of leather buttons (with use of hand-cutting machine) consists of tying a braided knot, around the tip of a finger, bringing the knot into a rounded button shape by pulling at the ends of the strip, cutting a shank at one end of the strip with a hand cutting machine, trimming both ends by cutting the excess leather off. and inserting the ends into the knot.

Prior to final adoption of such minimum piece rates, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing to the Administrator of the Wage and Hour Division, United States Department of Labor, Washington, D. C., within 15 days from the publication of this notice in the FEDERAL REGISTER.

Signed at Washington, D. C., this 4th day of January 1955.

> Wm. R. McComb, Administrator Wage and Hour and Public Contracts Divisions.

[F R. Doc. 55-157; Filed, Jan. 7, 1955; 8:48 a. m.l

[29 CFR Parts 701, 711, 712, 713]

CERTAIN INDUSTRIES IN PUERTO RICO NOTICE OF HEARING ON MINIMUM WAGE RECOMMENDATIONS

The Administrator of the Wage and Hour Division of the United States Department of Labor, acting pursuant to the Fair Labor Standards Act of 1938, as amended, (52 Stat. 1060, as amended, 29 U. S. C. 201 et seq.) on September 14, 1954, by Administrative Order No. 440 ¹ appointed Special Industry Committees Nos. 16-A, 16-B and 16-C for Puerto Rico

¹The holder of the inspection authorization will be considered as having been "actively engaged" if he has inspected and returned to service at least two aircraft, or two major repairs or major alterations of components in each month the inspection authorization has been in effect since issuance or last renewal.

Published in the FEDERAL REGISTER September 18, 1954 (19 F R. 6046), as amended by Administrative Order No. 441 (19 F R. 6817) and Administrative Order No. 442 (19 F R. 7164).

to investigate conditions and to recommend minimum wages for employees engaged in commerce or in the production of goods for commerce in the following industries in Puerto Rico:

Special Industry Committee No. 16-A. Electrical, Instrument, and Related Manufacturing Industries.

Special Industry Committee No. 16-B; Metal, Machinery, Transportation Equipment, and Allied Industries.

Special Industry Committee No. 16-C;

Plastic Products Industry.

Each committee included three disinterested persons representing the public. a like number representing employees in the industry and a like number representing employers in the industry.

Each committee has defined and made separate minimum wage recommendations for the particular industry and the divisions thereof and has duly filed a report containing its recommendations with the Administrator, pursuant to section 8 (d) of the act and § 511.9 of the regulations issued under the act (29 CFR. 511.9)

The Administrator is required by sec-. tion 8 (d) of the act, after giving due notice to interested persons and affording them opportunity to be heard, to approve and carry into effect each of the recommendations of the separate committees if he finds that the recommendations are made in accordance with law. are supported by the evidence adduced at the hearing and, taking into consideration the same factors as are required to be considered by industry committees, will carry out the purposes of the act. If he finds otherwise, he is required to disapprove such recommendations.

Now, therefore, notice is hereby given That:

A. The minimum wage recommendations of Special Industry Committees Nos. 16-A, 16-B, and 16-C for employees engaged in commerce or in the production of goods for commerce in the above named Industries in Puerto Rico and the Divisions thereof are as follows:

Divisions thereof are as follows:	
Recomment minimu	
Industry (cents an i	hour)
1. (Special Industry Committee No.	
16-A) Electrical, Instrument, and	
Related Manufacturing Indus-	
tries:	
a. Lens and Thermometer Division	60
b. Resistance-Type Household Ap-	•
pliance Division	68
c. General Division	
	70
2. (Special Industry Committee No.	
16-B) Metal, Machinery, Trans-	
portation Equipment and Allied	
Industries:	
a. Fabricated Wire Products, Steel	
Spring, and Slide Fastener Divi-	
sion	65
b. General Division	78
3. (Special Industry Committee No.	
16-C) Plastics Products Industry	
a. Sprayer and Vaporizer Division	75
b. Wall Tile, Dinnerware, and Pho-	
nographic Records Division	60
c. General Division	59
•	-

B. The definitions of the above named industries (as set forth in Administrative Order No. 440) and of the separate divisions thereof, for which Special Industry Committees Nos. 16-A, 16-B and 16-C have made the foregoing separate minimum wage recommendations are as follows:

1. Electrical, instrument, and related manufacturing industries. The manufacture, assembly, or repair of machinery, apparatus, equipment and supplies for the generation, storage, transmission, transformation or utilization of electrical energy and the manufacture. assembly, or repair of instruments, apparatus, and equipment for scientific, professional, industrial-measurement, photographic, musical or horological purposes: Provided, however That the definition shall not include (i) industrial and commercial machinery powered by electric motors, (ii) measuringand-dispensing pumps, or (iii) any activity included in the clay and clay products industry, the jewel cutting and polishing industry or the stone, glass, and related products industry as defined in the wage orders for those industries ın Puerto Rico.

Special Industry Committee No. 16-A recommended that the electrical, instrument, and related manufacturing industries, as defined in Administrative Order No. 440, be divided into separable divisions for the purpose of fixing minimum wage rates, and that these separable divisions be entitled and defined as follows:

(a) Lens and thermometer division. This division consists of the grinding and manufacture of optical and ophthalmic lenses and prisms and the manufacture of glass thermometers and hydrometers.

(b) Resistance-type household appliance division. This division consists of the manufacture of household electrical appliances of the resistance type and parts therefor, used for heating, cooking, and other purposes (except illumination) including, but without limitation, electric ranges, stoves, hotplates, cookers, casseroles, roasters, toasters, heaters, irons, and percolators.

(c) General division. This division consists of all products and activities included in the electrical, instrument, and related manufacturing industries. as defined in Administrative Order No. 440, except products and activities included in the lens and thermometer division and the resistance-type household appliance division, as defined herein.

2. Metal, machinery, transportation equipment, and allied industries. The mining or other extraction of metal ore and the further processing of such ore into metal; the manufacture (including repair) of any product or part made wholly or chiefly of metal; and the manufacture from any material of machinery, tools, transportation equipment, and ordnance: Provided, however That the definition shall not include (1) the production of any basic material other than metal; (2) the further processing of any basic material other than metal except when done by an establishment producing from such materials a product of these industries or subassembly of such product; (3) the building and repairing (including painting) of ocean-going ships when performed in dry docks or shipyards; (4) any activity included within the button, buckle, and jewelry industry or the shoe manufacturing and allied industries as defined in the wage orders for those industries; (5) or any activity included within the electrical, instrument, and related manufacturing industries as defined in the Administrative Order No. 440 appointing Special Industry Committees Nos. 16-A, 16-B, and 16-C for Puerto Rico. This definition supersedes the definition of the decorations and party favors industry with respect to the manufacture of metal articles other than those made from metallic chenille, foil, or tinsel.

Special Industry Committee No. 16-B recommended that the metal, machinery transportation equipment, and allied industries, as defined in Administrative Order No. 440, be divided into separable divisions for the purpose of fixing minimum wage rates, and that these separable divisions be entitled and defined as follows:

(a) Fabricated wire products, steel spring and slide fastener division. This division consists of the drawing of wire and rod and the fabrication of wire and rod products including, but without limitation, nails, brads, spikes, staples, chain, fencing, bare wire rope and cable, barbed wire, bale ties, and garment hangers; the manufacture of steel springs; and the manufacture of slide fasteners.

(b) General division. This division consists of all products and activities included in the metal, machinery transportation equipment, and allied industries, as defined in Administrative Order No. 440, except products and activities included in the fabricated wire products, steel spring and slide fastener division, as defined herein.

3. Plastic products industry. manufacture of molded or other fabricated plastic products: Provided, however That the definition shall not include (1) the manufacture of primary plastic materials such as sheets, rods, tubes, granules, powders, or liquids, (2) the sawing, cutting, grinding, polishing, and other processing of synthetic jewels for industrial use, (3) the manufacture of buttons, buckles, and jewelry (including rosaries) and jewelry findings (including beads) (4) the manufacture from pliable plastics in sheet or film form of ornaments and decorations for Christmas and other holidays, party favors and souvenirs, and similar items primarily ornamental or decorative in character (5) or any activity included in the leather, leather goods, and related products industry; the paper, paper products, printing, publishing and related industries; the shoe manufacturing and allied industries; or the textile and textile products industry as defined in the wage orders for these industries in Puerto Rico; or in the needlework and fabricated textile products industry the men's and boys' clothing and related products industry or the corsets, brassieres, and allied garments industry as defined in Administrative Order No. 433 appointing Special Industry Committee No. 15 for Puerto Rico. This definition supersedes the definition for the decorations and party favors industry with respect to the manufacture of plastic articles other than those made from pliable sheet or film.

C. The full texts of the Reports and Recommendations of Special Industry Committee No. 16-A for the Electrical, Instrument, and Related Manufacturing Industries; of Special Industry Committee No. 16-B for the Metal, Machinery, Transportation Equipment, and Allied Industries; and of Special Industry Committee No. 16-C for the Plastic Products Industry all in Puerto Rico, will be available for inspection by any person between the hours of 9 a.m. and 4:30 p. m. at the following offices of the United States Department of Labor, Wage and Hour Division:

18 Oliver Street, Boston 10, Mass. 525 Lafayette Building, 437 Chestnut Street, Philadelphia 6, Pa.

216 Engineers Building, 1365 Ontario Ave-

nue, Cleveland 14, Ohio.
600 Federal Office Building, 911 Walnut Street, Kansas City 6, Mo.

900 U. S. Parcel Post Building, 341 Ninth Avenue, New York 1, N. Y.

1007 Comer Building, 2026 Second Avenue, North, Birmingham 3, Ala.

105 West Adams Street, Chicago 3, Ill. 222 Fidelity Building, 1114 Commerce

Street, Dallas 2, Tex. 150 Federal Office Building, Fulton and

Leavenworth Streets, San Francisco 2, Calif. Fourteenth Street and Constitution Avenue NW., Washington 25, D. C. United States Court House, 801 Broad

Street, Nashville 3, Tenn.

412 New York Department Store Building, Stop 16½ Ponce de Leon Avenue, Post Office Box 9061, Santurce 29, P R.

Copies of the Committees' Reports and Recommendations máy be obtained by any person upon request addressed to the Administrator of the Wage and Hour Division, United States Department of Labor, Washington 25, D. C., or the Wage and Hour Division. United States Department of Labor, Room 412, New York Department Store Building, Stop 161/2 Ponce de Leon Avenue, Santurce 29, Puerto Rico.

D. Public hearings will be held at 10:00 a. m. on the dates and at the places set forth below before the Administrator of the Wage and Hour Division or a representative designated to preside in his place, for the purpose of taking evidence on the question of whether the separate recommendations of Special Industry Committees Nos. 16-A, 16-B and 16-C for Puerto Rico, as set forth above, shall be approved or disapproved.

Special Industry Committee No. 16-A Electrical, Instrument, and Related Manufacturing Industries in Puerto Rico, February 7, 1955, in room 5406, Department of Labor Building, Washington. D. C.

Special Industry Committee No. 16-B. Metal, Machinery. Transportation Equipment, and Allied Industries in Puerto Rico, February 10, 1955, in room 5406, Department of Labor Building, Washington, D. C.

Special Industry Committee No. 16-C, Plastics Products Industry in Puerto Rico, February 14, 1955, in room 5406, Department of Labor Building, Washington, D. C.

On February 7, 1955, at the commencement of these hearings the representatives of the Administrator will offer exhibits of general applicability as to Special Industry Committees Nos. 16-A,

16-B, and 16-C including, but without limitation, Administrative Orders Nos. 440, 441 and 442; the Notice of the Committees' hearings; the Regulations Applicable to Industry Committees (29 CFR Part 511) the Journal of each Committee's Proceedings; the Subject Notice of the Public Hearings; the certification of publication given the subject hearings; and the Order of Reference. In addition, but without limitation. Administrator's exhibits including the Report and Recommendation of the Committee, Special Recommendations, dissenting or supporting recommendations, and the record of the Industry Committee Hearing, including the transcript, and the exhibits and data submitted to the committee; and supplemental data which is material to the Administrator's determination will be offered in evidence on behalf of the Administrator at the commencement of the applicable public hearing.

E. Any interested person supporting or opposing any of the recommendations of Special Industry Committees Nos. 16-A, 16-B, and 16-C for Puerto Rico which are set forth above may appear at the applicable public hearing to offer evidence on his own behalf or on behalf of any other person; provided that not later than 7 days preceding any hearing at which he intends to appear, such person shall file with the Administrator of the Wage and Hour Division, United States Department of Labor, Washington 25, D. C., or the office of the Wage and Hour Division, United States Department of Labor, Room 412, New York Department Store Building, Stop 161/2, Ponce de Leon Avenue, Santurce, San Juan, Puerto Rico, notice of his intention to appear which shall contain the following information:

1. The name, address and telephone number of the person appearing;

2. If such person is appearing in a representative capacity the name and address of the person or persons whom he is representing;

3. The recommendation or recommendations of Special Industry Committees Nos. 16-A, 16-B, and 16-C for Puerto Rico in which he is interested and whether he proposes to appear for or against such recommendation or recommendations:

4. The approximate length of time required for his presentation.

Such notice may be mailed to either of the offices indicated above and will be considered as filed upon receipt.

F The records made at the hearings on conditions in the above-named industries in Puerto Rico held before Special Industry Committees Nos. 16-A, 16-B, and 16-C in Santurce, San Juan, Puerto Rico, may be examined at the offices of the Wage and Hour Division, United States Department of Labor, at 14th Street and Constitution Avenue, NW., Washington 25, D. C., and Room 412, New York Department Store Buildıng, Stop 161/2 Ponce de Leon Avenue, Santurce, San Juan, Puerto Rico, where they will be made available for 30 days prior to the date fixed herein for the hearing on the Committees' recommendations for such industries. Such records for this industry will be offered in

evidence at the public hearing for the Administrator or his representative.

G. The hearings will be conducted in accordance with the following rules, subject, however, to such subsequent modifications by the Presiding Officer (the Administrator or his authorized representative) as are deemed appropriate.

1. The hearing shall be stenographically recorded and a transcript made which will be available to any person, at prescribed rates, upon request addressed to the Administrator, Wage and Hour Division, United States Department of Labor, Fourteenth Street and Constitution Avenue NW., Washington 25, D. C.

2. At the discretion of the presiding officer, the hearing may be continued from day to day or adjourned until a later date, or to a different place by announcement thereof at the hearing, or by other appropriate notice.

3. At any stage of the hearing, the presiding officer may call for further evidence upon any matter. After the hearing has been closed, no further evidence shall be taken, except at the request of the Administrator, unless provision has been made at the hearing for the later receipt of such evidence. In the event that the Administrator shall cause the hearing to be reopened for the purpose of receiving further evidence, due and reasonable notice of the time and place fixed for such taking of testimony shall be given to all persons who have filed a notice of intention to appear at the hearing.

4. All evidence must be presented under oath or affirmation.

5. Except as otherwise permitted by the presiding officer, written documents or exhibits submitted personally at the hearing must be offered in evidence by a person who is prepared to testify as to the authenticity and trustworthiness thereof, and who shall, at the time of offering the documentary exhibit, make a brief statement as to the contents and manner of preparation thereof. ten sworn statements may be filed any time prior to the date of hearing by persons who cannot appear personally.

6. Written documents and exhibits shall be tendered in quadruplicate. When evidence is embraced in a document containing matter not intended to be put in evidence, such document will not be received, but the person offering the same may present to the Presiding Officer the original document together with two copies of those portions of the document intended to be put in evidence.

7. Subpoenas requiring the attendance of witnesses or the presentation of a document from any place in the United States at any designated place of hearing shall be issued by the Administrator upon request and upon a timely showing, in writing, of the general relevance and reasonable scope of the evidence sought. Any person appearing in the proceeding may apply to the Adiministrator for the issuance of the subpoena. Such application shall identify exactly the witness or document and state fully the nature of the evidence proposed to be secured.

8. Witnesses summoned by the Administrator shall be paid the same fees and

mileage as are paid witnesses in the courts of the United States. Witness fees and mileage shall be paid by the party at whose instance witnesses appear. and the Administrator before issuing a subpoena may require a deposit of an amount adequate to cover the fees and mileage involved.

9. The rules of evidence prevailing in courts of law or equity shall not be controlling. However, it shall be the policy to exclude irrelevant, immaterial, or unduly repetitious evidence.

10. The presiding officer shall, upon request, permit any person appearing in the proceeding to conduct such crossexamination of any witness offered by another person as may be required for a full and true disclosure of the facts, and to object to the admission or exclusion of evidence. Objections to the admission or exclusion of evidence shall be stated briefly with the reasons relied on. Such objections shall become a part of the record, but this record shall not include argument thereon except as ordered by the Presiding Officer.

11. Before the close of the hearing, written requests shall be received from persons appearing in the proceeding for permission to make oral arguments before the Administrator upon the matters in issue. If the Administrator, in his discretion allows the request, he shall give such notice thereof as he deems suitable to all persons appearing in the proceeding and shall designate the time and place at which the oral arguments shall be heard. If such requests are allowed, all persons appearing at the hearing will be given opportunity to present oral argument.

12. Briefs (4 copies) -on particular questions may be submitted to the Administrator following the close of the hearing by any persons appearing therein. Notice of the final dates for filing such briefs shall be given by the Administrator in such manner as shall

be deemed suitable by him.

13. (a) Where the hearing is held before the Administrator, within fifteen (15) days after the close of the hearing, any interested person appearing at the hearing may submit for the consideration of the Administrator an original and four copies of a statement, in writing, containing proposed findings and conclusions, together with supporting reasons therefor.

(b) Where the hearing is held before a representative of the Administrator designated to preside in his place, a complete record of the proceedings shall be certified to the Administrator upon the close of the hearing. The Administrator shall thereupon issue a tentative decision in the matter which shall become a part of the record and include therein (1) a statement of his findings and conclusions, as well as the reasons or basis therefor, upon all the material issues of fact, law or discretion presented upon the record, and (2) the appropriate order. Notice of the Administrator's tentative decision shall be published in the FEDERAL REGISTER.

(c) Within fifteen (15) days after such notice of the Administrator's tentative decision is published in the FEDERAL REGISTER, any interested person appearing at the hearing may file with the Administrator a statement in writing (original and four copies) setting forth any exceptions he may have to such decision, together with supporting reasons for such exceptions.

(d) After the expiration of the 15-day periods referred to in paragraph 13 (a) and (c) above, and after consideration of all relevant matters presented as provided in such paragraphs, the Administrator shall make his final decision in the matter, and shall issue an order approving or disapproving the recommendations of the Industry Committee. Such order shall be published in the FEDERAL REGISTER.

14. Any wage order issued as a result of hearing held hereunder shall take effect 30 days after due notice is given of the issuance thereof by publication in the FEDERAL REGISTER, or at such time prior thereto as may be provided therein, upon good cause found and published therewith.

Signed at Washington, D. C., this 5th day of January 1955.

> WM. R. McComb. Administrator Wage and Hour Division.

[F R. Doc. 55-158; Filed, Jan. 7, 1955; 8:49 a. m.l

CIVIL AERONAUTICS BOARD

[14 CFR Parts 1, 18, 24, 43, 52]

[Draft Release No. 54-27]

ELIMINATION OF ANNUAL INSPECTION OF GENERAL AIRCRAFT

NOTICE OF PROPOSED RULE MAKING

Pursuant to authority delegated by the Civil Aeronautics Board to the Bureau of Safety Regulation, notice is hereby given that the Bureau will propose to the Board amendments to Parts 1, 18, 24, 43, and 52 of the Civil Air Regulations as hereinafter set forth.

Interested persons may participate in the making of the proposed rules by submitting such written data, views, or arguments as they may desire: Communications should be submitted in duplicate to the Civil Aeronautics Board, attention Bureau of Safety Regulation, Washington 25, D. C. In order to insure their consideration by the Board before taking further action on the proposed rules, communications must be received by February 10, 1955. Copies of such communications will be available after February 12, 1955, for examination by interested persons at the Docket Section of the Board, Room 5412, Department of Commerce Building, Washington, D. C.

Currently effective Civil Air Regulations require owners and operators of general aircraft to have their aircraft inspected once a year by a representative of the Administrator or an appropriately rated certificated repair station. It should be noted that the term "general aircraft" means all aircraft other than aircraft used by scheduled air carriers. irregular air carriers, and commercial operators. Prior to the annual inspection, such aircraft must receive a periodic inspection conducted by a certificated mechanic or a repair station. In addition, if the aircraft is used for hire, it must receive a periodic inspection each 100 hours of operation.

In recent years the designated aircraft maintenance inspector (DAMI) and the repair station have gradually assumed the CAA agent's duty of conducting the annual inspection. This has resulted in the present procedure whereby the DAMI's and the repair stations actually conduct a combined periodic and annual inspection. The effect of this procedure has been to nullify the original concept of the double inspection, which to a great extent no longer exists. Under such circumstances a reasonable level of safety has been maintained, which indicates that a single system of inspection by an experienced mechanic or repair station is capable of assuring the continued airworthiness of aircraft provided the inspection system is based on time in service rather than on the calendar.

In order that the aviation industry and the flying public may benefit from these advances, it is proposed to eliminate the annual inspection of general aircraft. Such a change will relieve the CAA and the public of considerable administrative burden and it is anticipated will permit greater utilization of aircraft by the use of more economic and effective methods of inspection.

In place of the annual inspection, a periodic inspection will be conducted each 100 hours of operation or once a year, whichever comes first, by a mechanic holding a special authorization or an appropriately rated certificated repair station. As an alternative. it is proposed to authorize a progressive inspection system by an appropriately rated certificated repair station. We believe either of these proposed procedures will be simpler and more economical to the owner since he will be relieved from securing the presently required annual inspection. If adopted, this proposal will provide the owner or operator with the two optional methods of inspection and permit the use of the one most suitable for his needs.

The periodic inspection will be essentially the same as that required at present, while the alternate method will require inspections to be conducted at intervals and in such detail as will assure continued airworthiness. The detailed inspection of individual components and systems may be scheduled in progressive stages and the total time required for a given inspection will be materially reduced, thus reducing the time an aircraft is out of service.

In order to assure no reduction in the present level of safety it will be necessary to permit only authorized mechanics and appropriately certificated repair stations to conduct periodic inspections. while progressive inspections will be limited to appropriately rated certificated repair stations. Air carrier maintenance and inspection systems are not affected by this proposal. In addition, it is proposed to amend § 1.64 of Part 1 so that the airworthiness certificate will remain in effect as long as the maintenance provisions of Part 43 are complied with.

In order that interested persons can acquaint themselves with the proposed rules, policies and interpretations by which the Administrator intends to implement this proposal, the proposed material of the Administrator is being published concurrently with this notice of proposed rule making. Further the coordinated draft releases of the Bureau of Safety Regulation and the Administrator are being circulated together to the industry

In view of the foregoing, notice is hereby given that it is proposed to amend Parts 1, 18, 24, 43, and 52 of the Civil Air Regulations as follows:

- 1. By amending § 1.64 (a) of Part 1 to read as follows:
- § 1.64 Duration. (a) Unless sooner surrendered, suspended, revoked, or a termination date is otherwise established by the Board, the duration of an airworthiness certificate shall be in accordance with the provisions of subparagraphs (1) and (2) of this paragraph.
- (1) Experimental aircraft. An experimental certificate shall remain in effect for one year from the date of issuance or renewal, unless a shorter period is established by the Administrator.
- (2) Other aircraft. Except as provided in subparagraph (1) of this paragraph, airworthiness certificates shall be effective only when the maintenance requirements of Part 43 of this chapter are complied with.
- 2. By amending § 18.1 of Part 18 by adding new subparagraphs (19a) and (22a) to read as follows:
 - § 18.1 Definitions. (a) * * *
- (19a) Periodic inspection. A periodic inspection is a complete airworthiness inspection of an aircraft and its various components and systems within the time intervals specified in § 43.22 (a) of this chapter, and by a mechanic or repair station specified in §§ 18.10 and 18.11 in accordance with procedures prescribed by the Administrator.
- (22a) Progressive inspection. A progressive inspection is an airworthiness inspection of an aircraft and its various components and systems by an appropriately rated repair station at such intervals and in accordance with procedures prescribed by the Administrator.
- 3. By amending § 18.10 by adding the following sentence at the end of paragraph (a) "Periodic or progressive inspections may be performed only by a person authorized under paragraphs (f) and (g) of this section" and by adding new paragraphs (f) and (g) to read as follows:
- § 18.10 Persons authorized to perform maintenance, preventive maintenance, repairs, and alterations. • •
- (f) A certificated mechanic holding both airframe and powerplant ratings and authorized by the Administrator in accordance with § 24.43 of this chapter, or an appropriately rated and certificated repair station, may perform a periodic inspection on an aircraft.

- (g) An appropriately rated and certificated repair station may perform a progressive inspection.
- 4. By amending § 18.11 by adding a new subparagraph (6) to paragraph (b) and by adding new paragraphs (c) and (d) to read as follows:
- § 18.11 Persons authorized to approve maintenance, repair and alterations. * * *
- (b) Major repairs and alterations.
- (6) A certificated mechanic holding both airframe and powerplant ratings when authorized by the Administrator in accordance with § 24.43 of this chapter, if the work has been performed in accordance with a manual, specification, or other technical data approved by the Administrator.
- (c) Periodic inspection. No aircraft which has undergone a periodic inspection may be approved and released for service execept by one of the following:
- (1) A certificated mechanic holding both airframe and powerplant ratings when authorized by the Administrator in accordance with § 24.43 of this chapter, or
- (2) An appropriately rated and certificated repair station.
- (d) Progressive inspection. No aircraft which is inspected in accordance with the progressive inspection system may be approved and returned to service except by an appropriately rated and certificated repair station.
- 5. By adding a new § 18.22a to read as follows:
- § 18.22a Form and disposition of periodic and progressive inspection records. A record of periodic and progressive inspections shall be entered on a form prescribed by the Administrator. Such form shall be completed and disposed of in a manner prescribed by the Administrator.
- 6. By amending § 18.30 by adding a new paragraph (c) to read as follows:
- § 18.30 Standard of performance; general. * * *
- (c) Inspections. Periodic and progressive inspections shall be accomplished in accordance with procedures prescribed by the Administrator.
- 7. By amending § 24.40 of Part 24 by adding the reference "24.43" after the reference "24.42"
- 8. By adding a new § 24.43 to read as follows:
- Airframe and powerplant § 24.43 (a) A certificated mechanic ratings. holding both airframe and powerplant ratings and having such other qualifications as the Administrator may deem appropriate may when issued an authorization by the Administrator under paragraph (b) of this section, (1) examine, inspect, and release for service aircraft or components thereof, excluding air carrier aircraft, after major repairs and alterations that have been made in accordance with the provisions of Part 18 of this chapter and (2) conduct the periodic inspection required by § 43.22 (a) of this chapter. The activities conducted under authority of this section shall be in accordance with pro-

cedures and standards prescribed by the Administrator.

- (b) The Administrator shall issue an appropriate written authorization to any person qualified under paragraph (a) of this section who shall apply therefor, in the manner and form specified by the Administrator.
- 9. By amending § 43.20 of Part 43 to read as follows:
- § 43.20 General. No person shall operate an aircraft unless it is in an airworthy condition. Maintenance shall be performed in accordance with Part 18 of this chapter.
- 10. By amending § 43.22 to read as follows:
- § 43.22 Inspections—(a) Periodic inspection. No person shall operate an aircraft unless within the preceding 100 hours of time in service or within the preceding 12 calendar months, whichever comes first, it has been given a periodic inspection in accordance with the requirements of § 18.30 (c) of this chapter and all repairs found necessary on such inspection have been made and approved by persons authorized by §§ 18.10 and 18.11 of this chapter.
- (b) Progressive inspection. An aircraft shall be exempt from the provisions of paragraph (a) of this section provided it is subject to a progressive inspection by an appropriately rated and certificated repair station in accordance with § 18.30 (c) of this chapter, or is an air carrier aircraft maintained and inspected in accordance with the provisions of Part 40, Part 41, or Part 42 of this chapter.

Note: Until the expiration of the currently effective airworthiness certificate an aircraft will be operated in accordance with the provisions of § 43.22 prior to its revision. However, the owner or operator may at his option exchange the old certificate at any time prior to its expiration date.

- 11. By amending § 43.23 to read as follows:
- § 43.23 Aircraft and engine maintenance records. The registered owner or the operator shall maintain a maintenance record in a form and manner acceptable to or prescribed by the Administrator, which shall contain a current. accurate, and permanent record of the total time in service on the aircraft and each engine, and records of maintenance (excepting preventive maintenance) to the aircraft (including airframe, powerplant, propeller, and appliances) as required by §§ 18.20 and 18.21 of this chapter. Such records shall be (a) presented for required entries each time inspection or maintenance is accomplished on the aircraft or engine, (b) transferred to the new owner upon disposition of the aircraft or engine involved, and (c) made available for inspection by authorized representatives of the Administrator or the Board.
- 12. By amending § 43.70 by adding the following new definitions:

§ 43.70 Definitions. * * *

Aircraft. An aircraft shall mean any contrivance now known or hereafter invented, used, or designed for navigation of or flight in the air, including air-

¹ See F. R. Doc. 55-156, supra.

frame, powerplant, propeller, and appliances.

Maintenance. Maintenance, which includes preventive maintenance, shall mean the inspection, overhaul, repair, upkeep, and preservation of airframe, powerplant, propellers, and appliances, including the replacement of parts.

Operate. Operate means the use of aircraft for the purpose of air navigation and includes the navigation of aircraft. Any person who causes or authorizes the operation of aircraft, whether with or without legal control (in the capacity of owner, lessee, or otherwise) of the aircraft, shall be deemed to be engaged in the operation of aircraft.

Periodic inspection. A periodic inspection is a complete airworthiness inspection of an aircraft and its various components and systems within the time intervals specified in § 43.22 (a) of this

part by a mechanic or repair station specified in §§ 18.10 and 18.11 of this chapter in accordance with procedures prescribed by the Administrator.

Progressive inspection. A progressive inspection is an airworthiness inspection of an aircraft and its various components and systems by an appropriately rated repair station at such intervals and in accordance with procedures prescribed by the Administrator.

Time in service. Time in service, as used in computing maintenance and inspection time records, is the time from the moment an aircraft leaves the ground until it touches the ground at the end of the flight.

13. By amending § 52.22 (d) of Part 52 by deleting the words "annual inspections" and inserting in lieu thereof the words "periodic and progressive inspections."

14. By amending § 52.41 (d) by deleting the words "annual inspection" and inserting in lieu thereof the words "periodic and progressive inspections."

These amendments are proposed under the authority of Title VI of the Civil Aeronautics Act of 1938, as amended. The proposal may be changed in the light of comments received in response to this notice of proposed rule making. (Sec. 205, 52 Stat. 984; 49 U. S. C. 425. Interpret or apply secs. 601-610, 52 Stat. 1007-1012, as amended; 49 U. S. C. 551-560)

Dated. December 30, 1954, at Washington, D. C.

By the Bureau of Safety Regulation.
[SEAL] JOHN M. CHAMBERLAIN,

JOHN M. CHAMBERLAIN, Director

[F R. Doc. 55-155; Filed, Jan. 7, 1955; 8:48 a. m.]

NOTICES

POST OFFICE DEPARTMENT

PAYMENT OF DOMESTIC MONEY ORDERS MORE THAN ONE YEAR OLD

DELEGATION OF AUTHORITY

The following is the text of order of the Postmaster General No. 55779, dated November 26, 1954.

Effective December 1, 1954, domestic money orders issued on or after July 1, 1951, that are more than one year old from the last day of the month of issue shall be paid by postmasters under regulations prescribed by the Assistant Postmaster General, Bureau of Finance. (R. S. 161, 396; secs. 304, 309, 42 Stat. 24, 25,

Reorg. Plan 4 of 1949, 14 F R. 5227, sec. 1 (b), 63 Stat. 1066; 5 U. S. C. 22, 133z-15, 369)

[SEAL] ABE McGregor Goff
The Solicitor

[F. R. Doc. 55-145; Filed, Jan. 7, 1955; 8:46 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[Portland Area Office Redelegation Order 1]
SUPERINTENDENTS AND OTHER DESIGNATED
EMPLOYEES

REDELEGATIONS OF AUTHORITY WITH RESPECT TO CERTAIN FUNCTIONS

PART 1-GENERAL

1.1 1 Appeals.

1.1 Appears.
1.2 Limitations.

PART 2—AUTHORITY OF SUPERINTENDENTS, SCHOOL SUPERINTENDENT, AND PROJECT ENGINEER

FUNCTIONS RELATING TO LANDS AND MINERALS

2.11 Tax exemption certificates.

2.12 Leases and permits.

¹In Parts 1 and 2, the section numbers appearing to the right of the decimal correspond to the section numbers used in Order No. 551, as amended, of the Bureau of Indian Affairs.

Sec.
2.15 Allotment applications.
2.18 Release of mortgages.

FUNCTIONS RELATING TO CREDIT MATTERS

2.120 Loan agreements and modifications.

FUNCTIONS RELATING TO MEDICAL, HOSPITAL, AND NURSING SERVICES

2.252 Quarantine of Indians.

2.253 Commitment of insane Indians.

PART 1-GENERAL

Sec. 1.1 Appeals. Any action taken by any Superintendent or other officer pursuant to Part 2 of this order shall be subject to the right of appeal. An appeal may be taken from the decision of such Superintendent or other officer to the Area Director, Portland Area Office. An appeal must be filed in writing with such Superintendent or other officer and shall be promptly transmitted by him with the record in the case to the Area Director, Portland Area Office. Any action taken by the Area Director pursuant to this order shall be subject to the right of appeal to the Commissioner of Indian Affairs, pursuant to section 1 (a) of Order 551, as amended, of the Bureau of Indian Affairs. Any action taken by the Commissioner of Indian Affairs pursuant to this order shall be subject to the right of appeal to the Secretary of the Interior, pursuant to section 1 (a) of Order 2508, as amended, of the Secretary of the Interior.

SEC. 1.2 Limitations. Delegations of authority made by this order are not to be construed as depriving the Area Director of the authority conferred upon him by the Commissioner of Indian Affairs.

PART 2—AUTHORITY OF SUPERINTENDENTS, SCHOOL SUPERINTENDENT, AND PROJECT ENGINEER

Subject to the provisions of Part 1, Superintendents, School Superintendent, and Project Engineer may exercise the authority of the Area Director as indicated in this part.

FUNCTIONS RELATING TO LANDS AND MINERALS

, 2

SEC. 2.11 Tax exemption certificates. The issuance of tax exemption certificates covering lands designated as tax exempt under the provisions of the acts of June 20, 1936 (49 Stat. 1542) as amended by the act of May 19, 1937 (25 U. S. C., 1946 ed., sec. 412a)

SEC. 2.12 Leases and permits. The approval of leases and permits of tribal and individually owned trust or restricted lands for farming, farm pasture, or business purposes, pursuant to the provisions of 25 CFR 171. This authority does not extend to the waiver of requirements for advertising of leases or permits or to the waiver of acreage limitations on farm and farm pasture lands.

SEC. 2.15 Allotment applications. The approval and certification of applications for allotments on the public domain under authority of the act of February 8, 1887 (25 U. S. C. 1946 ed., sec. 334) or the acts of February 28, 1891, and June 25, 1910 (25 U. S. C., 1946 ed., sec. 336) and in the national forests pursuant to the Act of June 25, 1910 (25 U. S. C., 1946 ed., sec. 337)

SEC. 2.18 Release of mortgages. The approval of releases of mortgages given as security for loans made from the restricted funds of individual Indians, upon proof of payment of the loan.

FUNCTIONS RELATING TO CREDIT MATTERS

SEC. 2.120 Loan Agreements and Modifications. * * *

(b) The approval of applications of individuals for loans (subject to availability of funds) where the total indebtedness of the applicant to the lender does not exceed \$1.500.

FUNCTIONS RELATING TO MEDICAL, HOSPITAL, AND NURSING SERVICES

SEC. 2.252 Quarantine of Indians. The quarantine of Indians refusing to submit to remedial treatment of conta-

gious or infectious diseases, pursuant to the provisions of 25 CFR Part 84.

SEC. 2.253 Commitment of insane Indians. The commitment of insane Indians to State hospitals or institutions, pursuant to the provisions of 25 CFR Part 86.

Don C. Foster, Area Director

Approved: January 4, 1955.

GLENN L. EMMONS, Commissioner

[F. R. Doc. 55-135; Filed, Jan. 7, 1955; 8:45 a. m.]

Bureau of Reclamation

[Regional Director's Order 9]

REGION 1 PROJECT OFFICE HEADS
REDELEGATION OF AUTHORITY

DECEMBER 23, 1954.

SECTION 1 Authority. Pursuant to authority delegated to Regional Directors by Commissioner's Order No. 34 of October 6, 1954 (19 F R. 6555) and amendments thereof, Region 1 Project Office heads, as designated by the Regional Director, with respect to the geographic area within their jurisdiction, are authorized to perform the functions and exercise the following authorities:

SEC. 1.01 Land appraisals. Make or approve appraisals or reappraisals of lands, interests therein (including improvements on rights of way reserved under the act of August 30, 1890, and on similar rights of way) and water rights in connection with acquisitions for the construction or operation and maintenance of project works in all cases where the amounts do not exceed \$1,000 for property in one ownership.

SEC. 1.02 Land contracts. Execute contracts for and effect the purchase of lands or interests therein and water rights at approved appraised values, and acquire at more than approved appraised values easements for \$100 or less.

SEC. 1.03 Recordable contracts. Execute with water users and administer contracts required as a condition precedent to making lands eligible to receive project water.

SEC. 1.04 Construction with contributed funds. Execute contracts with water users or water users organizations for the performance of minor construction and improvement work within Federal reclamation projects with contributed funds where the total estimated cost of the work to be covered by the contract does not exceed \$2,000.

SEC. 1.05 Leases. Execute leases for grazing, agricultural, or recreational uses or development for periods not exceeding five years, and execute leases for summer homesites at Bureau reservoirs for periods of 10 years or less, of public lands under reclamation withdrawal and lands acquired for reclamation purposes; consent to subleases thereunder and modify, consent to assignment of, terminate, or cancel such leases.

SEC. 106 Licenses. Grant licenses for periods not exceeding 10 years, for specified rights excluding the development or transmission of electric power and energy to the use of Government right of way and other public lands under reclamation withdrawal and lands acquired for reclamation purposes; consent to sublicenses thereunder and modify, consent to assignment of, terminate, or cancel such licenses.

SEC. 1.07 Permits. Execute permits for periods not exceeding five years for the removal of sand, gravel, or building materials from public lands under reclamation withdrawal or land acquired for reclamation purposes, and modify consent to assignment of, terminate, or cancel such permits.

SEC. 2 Revocation. This order supersedes Regional Director's Orders No. 4 (Revision 1) dated October 16, 1952, and No. 7 dated December 16, 1953.

H. T. Nelson, Regional Director

[F R. Doc. 55-137; Filed, Jan. 7, 1955; 8:45 a. m.]

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

ORGANIZATION, FUNCTIONS AND AUTHORITIES

MISCELLANEOUS AMENDMENTS

The Notice of Organization, Functions and Authorities of the Agricultural Research Service, published in 19 F R. 514 on January 29, 1954, as amended, is hereby further amended as follows:

1. Section III, A, 3 is amended to read as follows:

3. The research, investigations, inspections, experimentations, demonstrations, development work, service and regulatory work, and control and eradication of insects, plant and animal pests and diseases provided for under the heading "Agricultural Research Administration" in the Department of Agriculture Appropriation Act of 1954 (except forest pests and diseases and research on off-farm handling, transportation and storage of agricultural products, including investigations of insect infestations of off-farm stored products) inspection and certification service, and standardization incidental thereto, for foods for dogs, cats, and other Carnivora, and for animal byproducts not capable of use as human food, and the identification of federally inspected meat, meat byproducts, and meat food products.

2. The following phrase is added at the end of section IV C, 2, b: "Has authority to conduct inspection and certification service for animal byproducts not capable of use as human food under cooperative agreements pursuant to the Agricultural Marketing Act of 1946."

3. The last sentence in section IV C, 2, c is amended to read: "Directs the inspection, certification and identification of canned wet maintenance dog food and canned or fresh frozen food component

SEC. 106 Licenses. Grant licenses for dog food and provides service for the periods not exceeding 10 years, for identification of certain federally insectified rights excluding the developsected meat, meat by-products, and tent or transmission of electric power meat food products, under the Agriculation denergy to the use of Government tural Marketing Act of 1946."

This document shall be effective upon issuance.

Done at Washington, D. C., this 5th day of January 1955.

"[SEAL] M. R. CLARKSON,
Acting Administrator
Agricultural Research Service.

[F R. Doc. 55-171; Filed, Jan. 7, 1955; 8:51 a. m.]

Office of the Secretary

AGRICULTURAL RESEARCH SERVICE

ASSIGNMENT OF ADDITIONAL FUNCTIONS

Pursuant to the authority vested in the Secretary of Agriculture by section 161, Revised Statutes (5 U. S. C. 22) and Reorganization Plan No. 2 of 1953, section 200 of the statement of delegations of authority and assignment of functions of the Department of Agriculture (19 F R. 74) as amended, is hereby further amended by changing paragraph "c" thereof to read as follows:

c. The research, investigations, inspections, experimentations, demonstrations, development work, service and regulatory work, and control and eradication of insects, plant and animal pests and diseases provided for under the heading "Agricultural Research Administration" in the Department of Agriculture Appropriation Act of 1954 (except forest pests and diseases and research on off-farm handling, transportation and storage of agricultural products, including investigations of insect infestations of off-farm stored products) inspection and certification service, and standardization incidental thereto, for foods for dogs, cats, and other Carnivora, and for animal byproducts not capable of use as human food, and the identification of federally inspected meat, meat byproducts, and meat food products.

The purpose of this amendment is to assign to the Agricultural Research Service authority for the inspection and certification upon request (and incidental standardization) of animal byproducts not capable of use as human food, and to specifically assign to that Service authority now being exercised under general provisions of the aforesaid statement for the identification of federally inspected meat, meat byproducts, and meat food products, upon request, under sections 203 and 205 of the Agricultural Marketing Act of 1946 (7 U.S. C. 1622 and 1624)

This amendment shall be effective upon issuance.

Done at Washington, D. C., this 4th day of December 1954.

[SEAL] E. L.

E. L. PETERSON, Assistant Secretary.

[F R. Doc. 55-172; Filed, Jan. 7, 1955; 8:52 a. m.]

DEPARTMENT OF LABOR

Office of the Secretary

[Gen. Order 79]

Assistant Secretary of Labor for Employment and Manpower

ASSIGNMENT OF FUNCTIONS UNDER TITLE XV
OF THE SOCIAL SECURITY ACT, AS AMENDED
(UNEMPLOYMENT COMPENSATION FOR
FEDERAL EMPLOYEES)

By virtue of and pursuant to the authority vested in me by R. S. 161 (5 U. S. C. 22) title XV of the Social Security Act, as amended, (act of September 1, 1954, C. 1212, 68 Stat. 1130) and Reorganization Plan No. 6 of 1950 (15 F R. 3174, 64 Stat. 1263; 5 U. S. C. (1952 Ed.) 611, Note) the Assistant Secretary of Labor for Employment and Manpower, or, if he so designates the Director of the Bureau of Employment Security, under his general direction and control. is hereby authorized to perform all the functions vested in the Secretary of Labor by title XV of the Social Security Act, as amended, except the promulgation and interpretation of regulations. and the entering into of agreements.

This order shall become effective immediately and shall supersede all prior orders, instructions, regulations, or memoranda of the Secretary of Labor to the extent that they are inconsistent herewith.

James P Mitchell, Secretary of Labor

DECEMBER 16, 1954.

[F R. Doc. 55-138; Filed, Jan. 7, 1955; 8:46 a. m.]

DIRECTOR OF BUREAU OF EMPLOYMENT SECURITY

ASSIGNMENT OF FUNCTIONS UNDER TITLE XV
OF THE SOCIAL SECURITY ACT, AS AMENDED
(UNEMPLOYMENT COMPENSATION FOR
FEDERAL EMPLOYEES)

By virtue of and pursuant to the authority vested in me by the Secretary of Labor in General Order No. 79 on December 16, 1954, the Director of the Bureau of Employment Security, subject to my general direction and control, is hereby authorized to perform all functions assigned to me by the Secretary of Labor in said general order.

Rocco C. Siciliano,
Assistant Secretary of Labor for
Employment and Manpower

DECEMBER 16, 1954.

[F R. Doc. 55-139; Filed, Jan. 7, 1955; 8:46 a. m.]

FEDERAL POWER COMMISSION

[Docket Nos. G-2656, G-2712, G-2779, G-2796, G-2850, G-2855, G-3030, G-3212, G-3714]

B. B. ORR ET AL.

NOTICE OF FINDINGS AND ORDERS

JANUARY 3, 1955.

In the matters of B. B. Orr, Docket No. G-2656; Arkansas Fuel Oil Corporation, Docket No. G-2712; R. L. Lowe, Docket

No. G-2779; Bel Oil Corporation, Docket No. G-2796; the Calana Corporation, Docket No. G-2850; Nemours Corporation, Docket No. G-2855, M. Anisman, et al., Docket No. G-3030; W A. Delaney, Jr., Docket No. G-3212; the Carter Oil Company Docket No. G-3714.

Notice is hereby given that on December 13, 1954, the Federal Power Commission issued its findings and orders adopted December 8, 1954, issuing certificates of public convenience and necessity in the above-entitled matters.

[SEAL]

J. H. GUTRIDE, Acting Secretary.

[F R. Doc. 55-143; Filed, Jan. 7, 1955; 8:46 a. m.]

[Docket Nos. G-2872—G-2876, G-3009, G-3026, G-3028, G-3059]

C. H. KILLINGSWORTH GAS CO. ET AL.

NOTICE OF FINDINGS AND ORDERS

JANUARY 3, 1955.

In the matters of C. H. Killingsworth Gas Company Geo. W Miller, et al., Docket No. G-2872; Mary Skinner Gas Company Geo. W Miller, et al., Docket No. G-2873; C. O. Killingsworth Gas Company Geo. W Miller, et al., Docket No. G-2874, Eugena Crites Gas Company Geo. W Miller, et al., Docket No. G-2875 Eva Sumpter Gas Company Geo. W Miller, et al., Docket No. G-2876 Geo. W Miller, et al., Docket No. G-2876 Fexas Gulf Producing Company Docket No. G-3009 R. H. Goodrich, Docket No. G-3026; W H. Cocke, Docket No. G-3028.

Notice is hereby given that on December 13, 1954, the Federal Power Commission issued its findings and orders adopted December 8, 1954, issuing certificates of public convenience and necessity in the above-entitled matters.

[SEAL]

J. H. Gutride, Acting Secretary.

[F R. Doc. 55-144; Filed, Jan. 7, 1955; 8:46 a. m.]

[Docket No. G-4351]

HOPE NATURAL GAS CO.

NOTICE OF APPLICATION AND DATE OF HEARING

JANUARY 3, 1955.

Take notice that Hope Natural Gas Company (Applicant), a West Virginia corporation whose address is Clarksburg, West Virginia, filed on October 19, 1954, an application for permission to abandon service pursuant to section 7 of the Natural Gas Act, authorizing Applicant to terminate service as hereinafter described, subject to the jurisdiction of the Commission, all as more fully represented in the application which is on file with the Commission and open for public inspection.

Applicant proposes to abandon a storage service which it has been rendering the River Gas Company an affiliate company, under a gas storage service agreement dated May 1, 1948. The ap-

plication recites that the River Gas Company has requested termination of the storage service, stating that other operating arrangements are available to it.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on January 31, 1955, at 9:30 a.m., e. s. t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved in and the issues presented by such application: Provided, however That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of § 1.30 (c) (1) or (2) of the Commission's rules of practice and procedure.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before January 21, 1955. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

[SEAL]

LEON M. FUQUAY, Secretary.

[F R. Doc. 55-141; Filed, Jan. 7, 1955; 8:46 a. m.]

[Docket No. G-5380]

SKELLY OIL CO.

ORDER POSTPONING HEARING

Upon consideration of the motion of Skelly Oil Company for extension of time and for continuance, filed December 28, 1954, in the above-designated matter,

The Commission orders: The time for service of copies of testimony and exhibits proposed to be offered at the hearing herein is extended from January 5, 1955, to January 14, 1955, and the time for hearing is continued from January 10, 1955, to January 19, 1955, at 10:00 a.m. in a hearing room of the Commission at 441 G Street NW., Washington, D. C.

The Commission Order to Show Cause and Suspending Notice of Termination of Rate Schedule issued November 30, 1954, is amended accordingly.

By the Commission.1

Adopted: December 31, 1954. Issued: January 4, 1955.

[SEAL]

LEON M. FUQUAY, Secretary.

[F R. Doc. 55-142; Filed, Jan. 7, 1955; 8:46 a. m.]

¹See F. R. Doc. 55-138, supra.

¹ Commissioners Draper and Smith dissent-

SECURITIES AND EXCHANGE COMMISSION

[File No. 70-3316]

NEW ENGLAND ELECTRIC SYSTEM ET AL.
ORDER GRANTING APPLICATION AND PERMITTING DECLARATION TO BECOME EFFECTIVE REGARDING CERTAIN TRANSACTIONS

JANUARY 4, 1955.

In the matter of New England Electric System, New England Power Company Connecticut River Power Com-

Electric

System

pany. File No. 70-3316.

England

("NEES") a registered holding company and two of its electric utility subsidiaries, New England Power Company ("NEPCO") and Connecticut River Power Company ("CRP") have filed a joint application-declaration and amendments thereto pursuant to sections 6 (b) 10, 12 (b) 12 (c) 12 (d) and 12 (f) of the Public Utility Holding Company Act of 1935 ("act") and Rules U-42 (b) U-43 (a) U-45 (a) U-46 and U-50 promulgated thereunder, and Instruction 8-C of the Uniform System of Accounts for Public Utility Holding Companies regarding transactions proposed by the three companies involving (1) the sale and transfer by CRP of its properties, franchises, materials and supplies to NEPCO for an aggregate consideration of \$38,646,924 subject to adjustment for certain minor items and for changes to the date of transfer. (2) the assumption by NEPCO, as a part of the purchase price, of \$3,200,000 of indebtedness of CRP payable to NEES, the balance of such purchase price to be paid in cash, (3) the forgiveness by NEES of the \$3,200,000 of idebtedness to be assumed by NEPCO to enable the latter to create a reserve for electric plant adjustments which may be required, (4) the redemption and retirement by CRP of all its indebtedness, including mortgage bonds held by the public, notes payable to banks and the balance of its indebtedness to NEES, (5) the payment

of a liquidating dividend by CRP to

NEES in connection with the surrender

by NEES of all but a nominal number of

shares of CRP common stock, and the

liquidation and dissolution of CRP (6)

the issue and sale by NEPCO of 519,560

shares of its \$20 par value common cap-

ital stock to NEES at \$25 per share or

an aggregate of \$12,989,000, (7) the transfer by NEES of its investment in

CRP as recorded on NEES' books, to its

investment in NEPCO and the approval

thereof by this Commission pursuant to

Instruction 8-C of the Uniform System

of Accounts for Public Utility Holding

Companies and (8) the issue and sale by

NEPCO, pursuant to the competitive

bidding requirements of Rule U-50, of \$25,000,000 principal amount of First

Mortgage Bonds __ Percent Series F due

The new bonds are to be issued under a First Mortgage Indenture and Deed of Trust dated as of November 15, 1936, as heretofore amended and supplemented and as to be further supplemented, by a Fifth Supplemental Indenture, and will be secured equally and ratably with the presently outstanding First Mort-

gage Bonds of NEPCO. The interest rate (which shall be a multiple of \(\frac{1}{8} \) of 1 percent and not in excess of $3\frac{1}{2}$ percent) to be borne by the bonds and the price, exclusive of accrued interest, to be paid NEPCO therefor (which shall be not less than the principal amount thereof nor more than 102\(\frac{1}{2} \) percent thereof) are to be fixed by competitive bidding.

The net proceeds to be received by NEPCO from the sale of the bonds together with funds derived from the sale of its common stock to NEES are to be applied to the payment of the purchase price of the properties and assets of CRP and any remaining balance will be applied to the payment of notes payable to NEES.

According to the filing certain of the proposed transactions have been authorized by The Massachusetts Department of Public Utilities, The New Hampshire Public Utilities Commission and The Vermont Public Service Commission. The Federal Power Commission has approved the accounting adjustments by CRP the acquisition of the CRP properties by NEPCO and the transfer of certain licenses for F P C. projects Nos. 1904 and 2077. It is represented that, except for the foregoing commissions, no State commission or Federal regulatory agency other than this Commission, has jurisdiction over any of the proposed transactions.

The estimated fees and expenses to be paid in connection with the proposed transactions aggregate \$158,626 as set forth in this Commission's Notice of Filing dated December 9, 1954 (Holding Company Act Release No. 12734) In addition, Milbank, Tweed, Hope & Hadley who have been designated as counsel for the purchasers of the bonds, have requested a fee of \$10,000 and expenses of approximately \$750 which are to be paid by the successful bidder.

The applicants-declarants have requested that the Commission's order herein become effective upon issuance.

Due notice having been given of the filing of said application-declaration in the manner prescribed by Rule U-23, and no hearing having been requested of or ordered by the Commission; and the Commission finding that the applicable standards of the act and the rules promulgated thereunder are satisfied and that no adverse findings are necessary. and the Commission deeming it appropriate in the public interest and in the interest of investors and consumers that said application-declaration be granted and permitted to become effective forthwith, except that the Commission deems it mappropriate to approve or disapprove the accounting treatment applicable to the proposed transactions by NEPCO and CRP as set forth in said amended application-declaration:

It is ordered, Pursuant to Rule U-23 and the applicable provisions of the act, that said application-declaration, as amended, be, and the same hereby is, granted and permitted to become effective forthwith, subject to the terms and conditions prescribed in Rule U-24: Provided, however That nothing herein contained shall be deemed to constitute

approval or disapproval of the accounting treatment applicable to the proposed transactions by NEPCO and CRP as set forth in said application-declaration herein, as amended.

It is further ordered, That the proposed transfer by NEES of its investment in CRP to its investment in NEPCO be, and hereby is, approved.

By the Commission.

[SEAL]

ORVAL L. DuBois, Secretary.

[F · R. Doc. 55-160; Filed, Jan. 7, 1955; 8:49 a. m.]

[File No. 70-3321]

ELECTRIC BOND AND SHARE CO.

ORDER AUTHORIZING SALE BY PARENT OF SECURITIES OF SUBSIDIARY

JANUARY 4, 1955.

Electric Bond and Share Company ("Bond and Share") a registered holding company having filed an application-declaration pursuant to sections 9, 10 and 12 (d) of the Public Utility Holding Company Act of 1935 ("act") and Rules U-44 (a) and U-50 promulgated thereunder with respect to the following proposed transactions:

Bond and Share heretofore filed with the Commission its Final Comprehensive Plan as finally amended July 7, 1953 (the "Plan") under section 11 (e) of the act. The Plan was approved by orders of the Commission dated February 20, 1953, and July 15, 1953, and by order of the United States District Court for the Southern District of New York dated July 16, 1953.

The Plan proposed, among other things, that Bond and Share would dispose of certain of its holdings of common stock of United Gas Corporation ("United Gas") by capital distribution, dividend distributions and rights offerings to the Bond and Share stockholders. Provision was also made that the remainder of the shares of United Gas stock to be disposed of under the Plan should be disposed of by Bond and Share in such manner and on such terms as it deemed appropriate within two years after the effective date of the Plan which was July 16, 1953.

Bond and Share now proposes to sell, pursuant to the competitive bidding requirements of Rule U-50, 170,000 shares of its present holdings of United Gas common stock plus additional shares not exceeding 25,500 as Bond and Share may acquire during the course of stabilizing operations effected by the applicant-declarant in connection with the proposed sale. Upon consummation of the proposed sale, Bond and Share's holdings of United Gas stock will be reduced to 1,275,040 shares, or 9.89 percent of the outstanding shares of such stock.

The applicant-declarant requests permission from the Commission to purchase not more than 25,500 shares of the United Gas common stock for the purpose of stabilizing the market for that stock on the New York Stock Exchange. The applicant-declarant contemplates

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that such stabilizing purchases may commence immediately upon the issuance of the order of the Commission relating to this application-declaration and that such purchases will be effected at a price (exclusive of commission) not in excess of the last preceding sale price of the United Gas common stock on the New York Stock Exchange. The applicant-declarant further contemplates that such stabilizing purchases may continue up to the receipt by the applicantdeclarant of bids for the shares of United Gas common stock herein proposed to be sold. As above indicated all shares of such stock purchased for stabilizing purposes will be sold by the applicantdeclarant together with the 170,000 shares of United Gas stock proposed to be sold as herein provided.

Bond and Share will advise the Commission of the precise number of shares of United Gas common stock acquired for stabilization purposes, and requests that the Commission reserve jurisdiction to enter a supplemental order containing appropriate recitals under Sections 1081 to 1083, inclusive, and section 4382 (b) (2) of the Internal Revenue Code of 1954.

Bond and Share's fees and expenses are estimated as follows:

Filing fee, Securities and Exchange	
Commission	\$684
Fees of counsel:	
Reid & Priest, New York City,	
counsel for United Gas	4,500
Simpson Thacher & Bartlett, New	
York City, counsel for Bond and	
Share	
Avery & Putnam, Jackson, Miss	500
Vinson, Elkins, Weems & Searls,	
Houston, Tex	500
Robert H. Smith, Mobile, Ala	
Wilkinson, Lewis & Wilkinson,	
Shreveport, La	500
Baker, Botts, Andrews & Parish,	
Houston, Tex	500
Auditors' fees (Haskins & Sells)	7,500
Printing, including registration	
statement, prospectus, etc	25,000
Report of Ralph B. Davis, independ-	
ent engineer	
Charges of Ebasco Services, Inc	4,000
Miscellaneous	7, 816

The fee of Milbank, Tweed, Hope & Hadley counsel for the successful bidders, which is to be paid by such bidders, is estimated at \$4,500.

Total_____ 66, 500

Due notice of the filing of the application-declaration having been given in the' manner prescribed by Rule U-23 promulgated under the act, and no hearing having been requested of or ordered by the Commission; and, the Commission finding that the applicable provisions of the act and rules promulgated thereunder are satisfied, that the estimated fees and expenses, if they do not exceed the estimates, are not unreasonable, and that the application-declaration, as amended, should be granted and permitted to become effective forthwith, subject to the reservation of jurisdiction hereinafter set forth.

It is ordered, Pursuant to Rule U-23 and the applicable provisions of the act that the application-declaration, as amended, be, and the same hereby is, granted and permitted to become effective forthwith, subject to the terms and

conditions prescribed in Rule U-24 and Rule U-50, and subject to the following reservation of jurisdiction:

That jurisdiction be, and the same hereby is, reserved to enter a supplemental order containing appropriate recitals under sections 1081 to 1083, inclusive, and section 4382 (b) (2) of the Internal Revenue Code of 1954.

By the Commission.

[SEAL]

ORVAL L. DuBois, Secretary.

[F R. Doc. 55-159; Filed, Jan. 7, 1955; circuity 8:49 a. m.] Sched

INTERSTATE COMMERCE COMMISSION

[4th Sec. Application 30083]

IRON AND STEEL PIPE FROM CARROLLTON, Mo. TO THE SOUTHWEST

APPLICATION FOR RELIEF

JANUARY 5, 1955.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by F C. Kratzmeir, Agent, for carriers parties to schedule listed below. Commodities involved: Steel or wrought iron pipe and related articles. From: Carrollton, Mo.

To: Points in Arkansas, Louisiana, New Mexico, Oklahoma, and Texas.

Grounds for relief: Competition with rail carriers, additional origin, and circuity.

Schedules filed containing proposed rates: F C. Kratzmeir, Agent, I. C. C. 4116, Supp. 13.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the General Rules of Practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emer-gency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL]

GEORGE W LAIRD, Secretary.

[F R. Doc. 55-146; Filed, Jan. 7, 1955; 8:46 a. m.]

[4th Sec. Application 30084]

FINE SAND FROM ILLINOIS TO SIBERT, ALA.

APPLICATION FOR RELIEF

JANUARY 5, 1955.

The Commission is in receipt of the above-entitled and numbered applica-

tion for relief from the long-and-shorthaul provision of section 4 (1) of the Interstate Commerce Act.

Filed by R. G. Raasch, Agent, for carriers parties to schedule listed below. Commodities involved: Sand, ground or pulverized, in packages or in bulk, in carloads.

From: Ottawa, Wedron, Sheridan, Millington, Oregon, and Utica, Ill.

To: Sibert, Ala.

Grounds for relief: Competition with rail carriers, market competition, and circuity

Schedules filed containing proposed rates: R. G. Raasch, Agent, I. C. C. 784, Supp. 24.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the General Rules of Practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission. in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL]

GEORGE W LAIRD, Secretary.

[F R. Doc. 55-147; Filed, Jan. 7, 1955; 8:46 a. m.]

[4th Sec. Application 30085]

COTTON FACTORY SWEEPINGS FROM SOUTH-ERN TERRITORY TO CHICAGO, ILL., AND JANESVILLE, WIS.

APPLICATION FOR RELIEF

JANUARY 5, 1955.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by R. E. Boyle, Jr., Agent, for carriers parties to schedule listed below.

Commodities involved: Cotton factory sweepings and related articles, carloads.

From. Specified points in southern territory

To: Chicago, Ill., and Janesville, Wis. Grounds for relief: Competition with rail carriers, to apply rates constructed on the basis of the short line distance formula, and circuity.

Schedules filed containing proposed rates: Agent C. A. Spaninger's I. C. C. 1351, Supp. 106.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the General Rules of Practice of the Com-

mission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL]

GEORGE W LAIRD, Secretary.

[F. R. Doc. 55-148; Filed, Jan. 7, 1955; 8:46 a. m.]

[4th Sec. Application 30086]

CANNED OR PRESERVED FOODSTUFFS FROM WESTERN TRUNK LINE TERRITORY AND MISSOURI TO OFFICIAL TERRITORY

APPLICATION FOR RELIEF

JANUARY 5, 1955.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by W J. Prueter, Agent, for carriers parties to schedules listed below.
Commodities involved. Canned or preserved foodstuffs, in carloads.

From. Points in WTL territory also points in southern Missouri.

To: Points in official territory.

Grounds for relief: Competition with motor carriers and circuity.

Schedules filed containing proposed rates: W J. Prueter, Agent, I. C. C. A-4079 F C. Kratzmeir, Agent, I. C C.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the General Rules of Practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W LAIRD, Secretary.

[F R. Doc. 55-149; Filed, Jan. 7, 1955; 8:47 a. m.]

[4th Sec. Application 30087]

BEET SUGAR FINAL MOLASSES FROM WEST-ERN TRUNKLINE TERRITORY TO ILLINOIS, MISSOURI AND WISCONSIN

APPLICATION FOR RELIEF

JANUARY 5, 1955.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by W J. Prueter, Agent, for carriers parties to schedules listed below. Commodities involved: Beet sugar final molasses, in tank-car loads.

From: Points in WTL territory.

To: Points in Illinois, Missouri, and Wisconsin.

Grounds for relief: Competition with rail carriers, to apply rates constructed on the basis of the short line distance formula, and circuity

Schedules filed containing proposed rates: W J. Prueter, Agent, I. C. C. A-3991, Supp. 44, W J. Prueter, Agent, I. C. C. A-3790, Supp. 105 W J. Prueter, Agent, I. C. C. A-4071, Supp. 1, W J. Prueter, Agent, I. C. C. A-3560, Supp. 255, Great Northern Railway I. C. C. 2, Supp. 14.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently

By the Commission.

[SEAL]

GEORGE W LAIRD, Secretary.

[F R. Doc. 55-150; Filed, Jan. 7, 1955; 8:47 a. m.]

[4th Sec. Application 30088]

CRACKED OR DRIED SOYBEANS FROM IOWA TO CHICAGO, ILL.

APPLICATION FOR RELIEF

JANUARY 5, 1955.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by Wabash Railroad Company, for itself and Southern Iowa Railway Company.

Commodities involved: Soybeans, cracked or dried, in carloads.

From. Centerville and other points in Iowa.

To: Chicago, Ill.

Grounds for relief. Competition with rail carriers, operation through higher-rated territory and circuity

Schedules filed containing proposed rates: Wabash Railroad tariff I. C. C. No. 7744, Supp. No. 2.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL]

George W Laird, Secretary.

[F R. Doc. 55-151; Filed, Jan. 7, 1955; 8:47 a. m.]

[4th Sec. Application 30089]

CHILDREN'S VEHICLES FROM SHEBOYGAN, WIS., TO EASTERN POINTS

APPLICATION FOR RELIEF

JANUARY 5, 1955.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by H. R. Hinsch, Agent, for carriers parties to his tariff I. C. C. 4542 pursuant to FSO 17220.

Commodities involved. Children's vehicles, carloads.

From. Sheboygan, Wis.

To: Eastern points.

Grounds for relief: Competition with rail carriers, and circuity

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W LAIRD, Secretary.

[F R. Doc. 55-152; Filed, Jan. 7, 1955; 8:47 a. m.]